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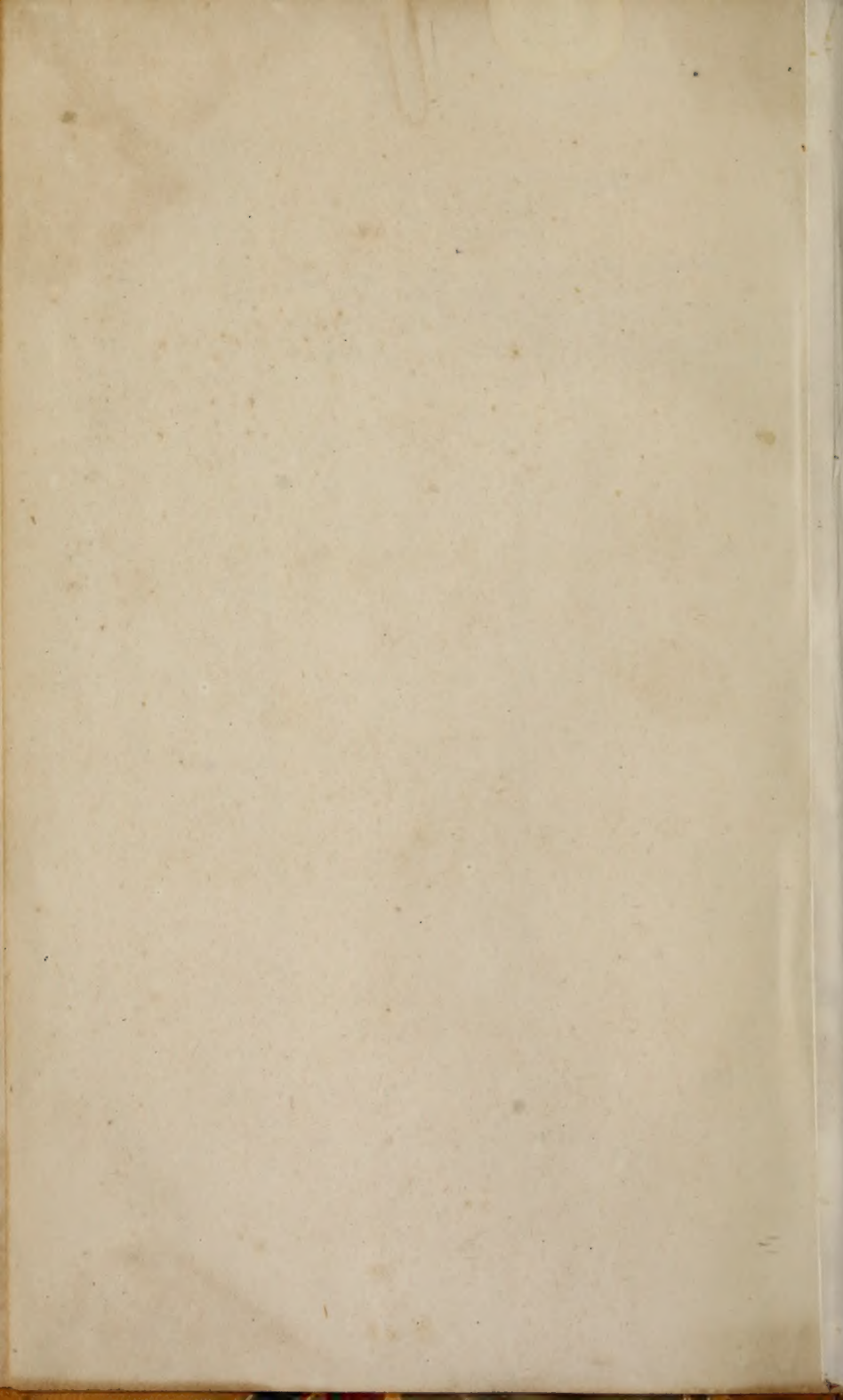
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JOURNAL

THE TENTH SESSION

JOURNAL

OF THE

PROCEEDINGS OF THE SENATE.

SACRAMENTO

PUBLISHED BY THE SENATE

1877

JOURNAL

OF THE

PROCEEDINGS OF THE SENATE



# JOURNAL

OF

THE EIGHTH SESSION

OF

*The Senate of the State of California,*

BEGUN ON

THE FIFTH DAY OF JANUARY, ONE THOUSAND EIGHT HUNDRED AND  
FIFTY-SEVEN, AND ENDED ON THE TWENTY-NINTH DAY OF  
APRIL, ONE THOUSAND EIGHT HUNDRED AND FIFTY-  
SEVEN, AT THE CITY OF SACRAMENTO.

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Published by Authority.

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1857.

JOURNAL

THE EIGHTH SESSION

OF THE SENATE OF THE STATE OF CALIFORNIA

RECEIVED

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GEORGE W. KENTON,  
LITHOGRAPHER,  
SACRAMENTO, CALIF.



# SENATE OF CALIFORNIA.

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## EIGHTH SESSION.

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### IN SENATE.

SENATE CHAMBER,  
Sacramento, January 5th, 1857. }

Pursuant to the provisions of the Constitution, the Senate was called to order at 12 o'clock M., by Hon. R. M. Anderson, Lieutenant-Governor.

Prayer by Rev. Mr. Benton.

The roll of Senators holding over was called, and the following gentlemen answered to their names :—

Messrs. Ashley, Burnett, Bynum, Coffroth, Crandall, De La Guerra, Dosh, Fiske, McCallum, McGee, Shaw, Tilford, and Waite.

By direction of the President, the roll of Senators elect was next called

The following gentlemen came forward, presented their credentials, and subscribed the oath of office as administered by Hon. David S. Terry, one of the Justices of the Supreme Court, viz:

Messrs Bell, Chase, Carpenter, Ferguson of Sierra, Johnson of Sacramento, Johnson of El Dorado, Mandeville, Melony, Merritt, Norman, Soule, Sullivan, Talliaferro, and Walkup.

Messrs. Goodwin and Messick were absent.

Mr. Ashley offered the following resolution:

*Resolved*, That the President of the Senate appoint a Committee of five to prepare and report a system of rules for the government of the Senate, which committee shall act with the committee of the Assembly upon the Joint Rules,

and until further order, the Standing Rules of the last session of the Senate are adopted.

Adopted.

In conformity with the terms of Mr. Ashley's resolution, the President appointed Messrs. Ashley, Tilford, Coffroth, Johnson of Sacramento, and Bynum, said committee.

Mr. Tilford gave notice, that on to-morrow, or at an early day thereafter, he would introduce a concurrent resolution for a Joint Convention of the Senate and Assembly to elect two United States Senators.

Mr. Shaw gave notice that he would at an early day, introduce an Act recommending to the Electors to vote for or against a Convention to revise and change the Constitution of this State.

Also, an Act concerning insolvent debtors, and attachments against their property.

Also, an Act to protect from forced sale a certain portion of the homestead and other property of all heads of families.

Mr. Shaw offered the following resolution:

*Resolved*, That the Controller be, and he is hereby requested, to furnish for the use of the Senate, a full and particular account, (irrespective of any information which may be contained in his or any former Controller's Annual Reports,) of all the warrants drawn by the Controller upon the Treasurer of State, from the first organization of the Controller's office down to the present time; specifying the objects for which they were drawn, and the particulars, as far as can be necessary for a complete understanding of the purposes to which the moneys therein directed to be paid, were respectively appropriated; classifying the same under the Legislative, Executive, and Judicial departments, and showing separately every item or class of items of expense in any manner incurred or contracted, under or in support of each of the said departments, and for which Controller's warrants have been drawn during the aforesaid period; specifying the dates, and footing up the amounts given.

Also, the exact amount of all Controller's warrants issued, and of all debts and liabilities in any way contracted or incurred by the Government, from the 15th of December, A. D. 1849, to the 5th day of January, A. D. 1851.

Adopted:

On motion of Mr. Tilford, the Senate adjourned.

R. M. ANDERSON,  
President of Senate.

Attest:

W. BAUSMAN,  
Secretary of Senate.



## IN SENATE.

TUESDAY, January 6th, 1857.

Senate met pursuant to adjournment.

Lieutenant-Governor in the chair.

Prayer by the Rev. Mr. Benton.

Journal of yesterday read and approved.

Mr. Goodwin presented his credentials and was sworn in by the President of the Senate.

Mr. Mandeville offered the following resolution :

*Resolved*, That the Senate proceed to the election of Officers in the following order :

- 1st. President, *pro tem*.
- 2nd. Secretary.
- 3rd. Assistant Secretary.
- 4th. Sergeant-at-Arms.
- 5th. Enrolling Clerk.
- 6th. Engrossing Clerk.
- 7th. Door Keeper.

Adopted.

The Senate then went into an election for officers.

Mr. Tilford nominated Mr. Dosh for President *pro tem*.

Those who voted for Mr. Dosh were :

Messrs. Coffroth, Crandall, Carpenter, Chase, De La Guerra, Ferguson of Sierra, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McGee, Melony, Merritt, Shaw, Tilford, Taliaferro, Westmoreland, Wilson, and Walkup—18.

Mr. Ashley voted for Mr. Burnett.

Messrs. Burnett and McCallum voted for Mr. Ashley.

Messrs. Fiske and Waite voted for Mr. McCallum.

Mr. Dosh having received a majority of all the votes cast, was declared duly elected.

Mr. Mandeville placed Geo. S. Evans in nomination for the office of Secretary.

Those who voted for Mr. Evans, were :

Messrs. Coffroth, Crandall, Carpenter, Chase, De La Guerra, Dosh, Fiske, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McGee, Meloy, Merritt, Norman, Shaw, Telford, Taliaferro, Westmoreland, Wilson, and Waikup—20.

Mr. Evans having received all the votes cast, was declared duly elected Secretary of the Senate.

Mr. Westmoreland nominated Ira Ward, as a candidate for Assistant Secretary.

Those who voted for Mr. Ward, were :

Messrs. Crandall, Carpenter, Chase, De La Guerra, Dosh, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCullum, McGee, Meloy, Merritt, Norman, Shaw, Telford, Taliaferro, Westmoreland, Wilson and Waikup—18.

Mr. Ward having received all the votes cast, was declared duly elected Assistant Secretary of the Senate.

Mr. Carpenter nominated Alex. Hunter, for the office of Sergeant-at-Arms.

Those who voted for Mr. Hunter, were :

Messrs. Crandall, Carpenter, Chase, De La Guerra, Dosh, Fiske, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCullum, McGee, Meloy, Merritt, Norman, Shaw, Telford, Taliaferro, Westmoreland, Wilson and Waikup—20.

Mr. Coffroth voted for E. C. Dowdigan.

Mr. Hunter having received a majority of all the votes cast, was declared duly elected Sergeant-at-Arms of the Senate.

Mr. Crandall nominated J. C. Shipman, for Enrolling Clerk.

Those who voted for Mr. Shipman, were :

Messrs. Coffroth, Crandall, Carpenter, Chase, De La Guerra, Dosh, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCullum, McGee, Meloy, Merritt, Norman, Shaw, Telford, Taliaferro, Westmoreland, Wilson, and Waikup—20.

Mr. Shipman having received all the votes cast, was declared duly elected Enrolling Clerk of the Senate.

Mr. Melony nominated J. C. Webster for Engrossing Clerk.

Those who voted for Mr. Webster, were :

Messrs. Bynum, Coffroth, Crandall, Carpenter, Chase, De La Guerra, Dosh, Fiske, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, McGee, Melony, Merritt, Norman, Shaw, Tifford, Taliaferro, Westmoreland, Wilson, and Walkup—22.

Mr. Webster having received all the votes cast, was declared duly elected Engrossing Clerk of the Senate.

Mr. Mandeville nominated John McGlenchy for Door Keeper.

Those who voted for Mr. McGlenchy, were :

Messrs. Bynum, Crandall, Carpenter, Chase, De La Guerra, Dosh, Fiske, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, McGee, Melony, Merritt, Norman, Shaw, Tifford, Taliaferro, Westmoreland, Wilson and Walkup—21.

Mr. Coffroth voted for Count Geo. B. Billeman.

Mr. McGlenchy having received a majority of all the votes cast, was declared duly elected Door Keeper of the Senate.

At the request of the President of Senate, the officers of the Senate elect came forward and subscribed the oath of office.

Mr. Fiske offered the following resolution :

*Resolved*, That the Secretary of the Senate be requested to inform the House that the Senate is now organized and ready to proceed to business.

Adopted.

Mr. Fiske moved that the Senate proceed to the election of a Chaplain, upon which the Ayes and Noes were demanded by Messrs. Ashley, Merritt, and McGee, with the following result :

#### AYES.

Messrs. Bynum, Bell, Carpenter, Chase, Dosh, Fiske, Goodwin, Johnson of El Dorado, Mandeville, Shaw, Sullivan, Tifford, Taliaferro, Westmoreland, Wilson—15.

#### NOES.

Messrs. Ashley, Burnett, Coffroth, Crandall, Ferguson of Sierra, Johnson of

Sacramento, McCallum, McGee, Melony, Merritt, Norman, Soule, Waite, Walkup—14.

So the motion was carried.

Mr. Fiske nominated the Rev. Mr. Benton, of Sacramento.

Mr. Tilford nominated the Rev. Mr. Gallagher, of San Francisco.

Mr. Taliaferro nominated the Rev. Mr. Hill, of Sacramento.

Mr. Melony nominated the Rev. Mr. Woodbridge of Benicia.

Those who voted for Mr. Benton, were:

Messrs. Fiske, Goodwin, McCallum, and Sullivan—4.

Those who voted for Mr. Gallagher, were :

Messrs. Ashley, Burnett, Crandall, Carpenter, Dosh, Johnson of El Dorado, Merritt, Norman, Shaw, Tilford, Waite, and Westmoreland—12.

Those who voted for Mr. Hill were:

Messrs. Chase, Johnson of Sacramento, McGee, Taliaferro, and Wilson—5.

Those who voted for Mr. Woodbridge, were :

Messrs. Bynum, Mandeville, Melony, and Walkup—4.

Mr. Coffroth voted for Bishop Alemany.

No gentleman having received a majority of all the votes cast, the Secretary proceeded to call the roll a second time.

Those who voted for Mr. Gallagher, were:

Messrs. Ashley, Burnett, Coffroth, Crandall, Carpenter, De Le Guerra, Dosh, Johnson of El Dorado, McCallum, Merritt, Norman, Shaw, Tilford, Waite, and Westmoreland—15.

Messrs. Fiske, Goodwin, Soule, and Sullivan, voted for Mr. Benton—4.

Messrs. Bynum, Mandeville, Melony, Wilson and Walkup, voted for Mr. Woodbridge—5.

Messrs. Chase, Ferguson of Sierra, Johnson of Sacramento, McGee, and Taliaferro, voted for Mr. Hill—5.



Rev. Mr. Gallagher having received a majority of all the votes cast, was declared duly elected Chaplain of the Senate.

Mr. Westmoreland moved to adjourn.

Lost.

Mr. Goodwin moved a call of the Senate.

Lost.

On motion of Mr. Shaw, the Senate adjourned until to-morrow, at 11 o'clock  
A. M.

R. M. ANDERSON,

President of Senate.

Attest:

W. BAUSMAN,

Secretary of Senate.

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## IN SENATE.

WEDNESDAY, January 7, 1857.

Senate met pursuant to adjournment.

The President in the chair.

Prayer by the Rev. Mr. Benton.

Journal of yesterday read and approved.

The following message was received from the Assembly:

*Mr. President :*

I am directed to inform the Senate that the Assembly has completed its organization by the selection of the following Officers :

E. F. Beatty, Speaker,  
 William Campbell, Chief Clerk,  
 J. W. Seoby, Assistant Clerk.  
 Richard Lambert, Enrolling Clerk.  
 Bolivar Harris, Engrossing Clerk.  
 Silas Brown, Sergeant-at-Arms.  
 J. J. Frazier, Door Keeper.

And is ready to proceed with the business of the session.

W. CAMPBELL,  
 Clerk of Assembly.

They have also passed the following resolution :

*Resolved*, By the Assembly, the Senate concurring, that a Committee of three members of each House be instructed to inform His Excellency Governor Johnson, that the Senate and Assembly have organized, and are ready to receive any communication he may be pleased to make, and appointed Messrs. Hall, Stevenson, and Hunt, Committee on part of the House.

W. CAMPBELL,  
 Clerk of Assembly.

Mr. Mesiek, of Yuba county, appeared, presented his credentials, and took the oath of office.

On motion of Mr. McCallum, the resolution of the Assembly was concurred in.

The President appointed as the committee on the part of the Senate, Messrs. McCallum, Goodwin, and Merritt.

The Select Committee appointed to prepare Rules, reported as follows:

To the Hon. R. M. ANDERSON,  
*President of Senate :*

Your committee appointed to prepare Rules, have considered the subject, and would recommend the adoption of the Rules herewith reported.

D. R. ASHLEY,  
 Chairman.

## RULES AND ORDERS OF THE SENATE.

### I.

The President shall call the Senate to order at the stated hour, and if a quorum be present, he shall order read the journal of the proceedings of the preceding day.

## II.

After the reading and approving of the journal, the order of business shall be as follows:

- 1st—Presentation of Petitions.
- 2d —Reports of Standing Committees.
- 3d —Reports of Select Committees.
- 4th—Messages from the Governor.
- 5th—Messages from the Assembly.
- 6th—Second reading and commitment of bills.
- 7th—Introduction and first reading of bills.
- 8th—Motions, resolutions, and notices.
- 9th—Business on the general file, and third reading of bills.
- 10th—Unfinished business of the preceding day.
- 11th—Special orders of the day.
- 12th—Reports from the Committees on Enrollment, and on Engrossment shall at all times be in order.

## III.

Messages from the Governor, State Officers, and from the Assembly may be considered at any time.

## IV.

All bills and resolutions after the second reading, if the same be not committed, but if committed, then upon being reported, shall be placed upon a general file and shall be taken up for consideration and passage in the order of their being placed on file.

## V.

All questions relating to the priority of business shall be decided without debate.

## VI.

When the reading of a paper is called for, (except petitions,) and the same is objected to by any member, it shall be determined by a vote of the Senate without debate.

## VII.

When a question is under debate no motions shall be received, but the following privileged questions shall have precedence, in the following order:

- 1st —To adjourn.
- 2d —For a call of the Senate.
- 3d —To lay on the table.
- 4th—To postpone to a certain day.
- 5th—To commit.
- 6th—To amend.
- 7th—To postpone indefinitely.

## VIII.

The President shall have the right to name any member to perform the duties of the Chair, who is hereby vested, during such time, with all the powers of the President: but such substitute shall not lose the right of voting on any question while so presiding.

## IX.

Every Senator, when he speaks, shall, standing in his place, address the President: and when he has finished he shall sit down. No member shall speak more than twice in any one debate on the same day, and at the same stage of the bill, without leave: and Senators who have once spoken, shall not again be entitled to the floor, (except for explanation,) to the exclusion of another who has not spoken.

## X.

Who two or more members rise at once, the President shall name the member who is to speak first.

## XI.

No motion shall be debated until the same be seconded, and distinctly announced by the President: and it shall be reduced to writing, if desired by the President or any member, and read by the Secretary, before the same shall be debated. A motion may be withdrawn at any time before amendment.

## XII.

Every bill shall be introduced by giving at least one day's previous notice, or by order of the Senate on the report of a Committee, unless the Senate unanimously consent.

## XIII.

Every bill shall receive three readings previous to its being passed. The President shall give notice at each, whether it be the first, second, or third; which readings shall be on different days, unless the Senate, by a two thirds' vote direct otherwise. *Provided*, that upon the first reading of a bill, if no objection be made, it may without delay be read a second time by title, and be committed or placed on the general file. No bills shall be amended or committed until twice read.

## XIV.

When the ayes and noes shall be called for by three members present, every member within the bar of the Senate at the time the question was put, shall, (unless for special reasons he be excused,) declare openly and without debate, his assent or dissent to the question. In taking the ayes and noes, and upon the call of the Senate, the names of the members shall be taken alphabetically. All motions to be excused from voting, must be made and decided before commencing to



call the roll. When the ayes and noes shall be taken upon any question in pursuance of this rule, no member shall be permitted, under any circumstances whatever, to vote after the decision is announced from the Chair.

## XV.

All Committees of the Senate, and all Joint Committees on the part thereof, shall be appointed by the President, or in his absence, by the President *pro tem.*, or in the absence of both, by the acting President.

## XVI.

The rules of the Senate shall be observed in Committee of the Whole, so far as may be applicable, except limiting the number of times of speaking, and except that the ayes and noes shall not be taken.

## XVII.

When a member shall be called to order, he shall sit down, until the President shall have determined whether he is in order or not; and every question of order shall be decided by the President, subject to an appeal to the Senate by any member. If a member be called to order for words spoken, the exceptionable language shall immediately be taken down in writing.

## XVIII.

No member shall absent himself from the service of the Senate, without leave first obtained. A less number than a quorum of the Senate are hereby authorized to send the Sergeant-at-Arms, or any other person, for any or all absent members, as the majority of such members present shall agree, at the expense of such absent member respectively, unless such excuse for non-attendance shall be made as the Senate, when a quorum is convened, shall judge sufficient, and in that case, the expense shall be paid out of the contingent fund; and this rule shall apply as well to the first convention of the Senate, at the legal time of meeting, as to each day of the session, after the hour has arrived to which the Senate stood adjourned. The President, or acting President of the Senate, or of less than a quorum thereof, shall have power to issue process directed to the Sergeant-at-Arms, or any other person, to compel the attendance of members absent without leave. Any Senator who shall refuse to obey such process, unless sick and unable to attend, shall be deemed guilty of a contempt of the Senate, and the Sergeant-at-Arms, or other person, to whom such process may be directed, shall have power to use such force as may be necessary to compel the attendance of such absent member, and for this purpose he may command the force of the county, or of any county in the State.

## XIX.

When a question has been once put and decided, it shall be in order for any member voting in the majority to move for the reconsideration thereof, and such motion shall take precedence of all other questions, except a motion to adjourn; but no motion for the reconsideration of any vote shall be in order after the bill,

resolution, message, report, amendment, or motion upon which the vote was taken, shall have gone out of the possession of the Senate; nor after the usual message shall have been sent from the Senate announcing its decision, nor shall any motion for reconsideration be in order, unless made on the same day in which the vote was taken, or upon the next day of the actual session of the Senate thereafter; nor shall any question be reconsidered more than once.

## XX.

If a Senator gives notice that he intends to move a reconsideration, the Secretary shall not report the bill or resolution to the Assembly, till the reconsideration is disposed of, or the time for moving the same has expired.

## XXI.

The following Standing Committees shall be appointed :

- |    |              |  |
|----|--------------|--|
| 1  | Committee on | Claims, to consist of five members.                            |
| 2  | do           | Finance, to consist of five members.                           |
| 3  | do           | Judiciary, to consist of seven members.                        |
| 4  | do           | Elections, to consist of five members.                         |
| 5  | do           | Public Lands, to consist of five members.                      |
| 6  | do           | Commerce and Navigation, to consist of five members.           |
| 7  | do           | Federal Relations, to consist of five members.                 |
| 8  | do           | State Hospitals, to consist of five members.                   |
| 9  | do           | Mines and Mining Interests, to consist of seven members.       |
| 10 | do           | States Prison and Pub. Buildings, to consist of seven members. |
| 11 | do           | Education, to consist of five members.                         |
| 12 | do           | State Library, to consist of three members.                    |
| 13 | do           | Mileage, to consist of three members                           |
| 14 | do           | Counties and County Boundaries, to consist of five members.    |
| 15 | do           | Corporations, to consist of five members.                      |
| 16 | do           | Agriculture, to consist of five members.                       |
| 17 | do           | Public Printing, to consist of five members.                   |
| 18 | do           | Roads and Highways, to consist of three members.               |
| 19 | do           | Contingent Expenses of Senate, to consist of five members.     |
| 20 | do           | Military Affairs, to consist of five members.                  |
| 21 | do           | Public Expenditures, to consist of five members.               |
| 22 | do           | Public Morals, to consist of five members.                     |
| 23 | do           | Engrossed Bills, to consist of six members.                    |
| 24 | do           | Enrolled Bills, to consist of six members.                     |
| 25 | do           | Internal Improvements, to consist of five members.             |

## XXII.

When an amendment to the Constitution, or any bill requiring the concurrence of two-thirds of the Senators is under consideration, the concurrence of two-thirds shall not be required to decide any question for amendments, or, extending to the merits, being short of the final question.

## XXIII.

On a motion made and seconded to close the doors of the Senate, on the discussion of any business which may, in the opinion of the Senate, require secrecy, the President shall require all persons except the Members, Secretaries, Sergeant-at-Arms and Door Keeper of the Senate, to withdraw, and during the discussion of said motion, the doors shall remain closed, and every member and officer of the Senate shall keep secret all such matters, proceedings, and things, whereof secrecy shall be enjoined, by order of the Senate.

## XXIV.

The Committee on Engrossed Bills shall examine all bills, amendments and resolutions, before they go out of the possession of the Senate, and make report.

## XXV.

When a resolution shall be offered, or a motion made to refer any subject, and a different Committee shall be proposed, the question shall be taken in the following order, viz :

1. The Committee of the Whole Senate.
2. A Standing Committee.
3. A Select Committee.

## XXVI.

In all cases not provided for by these Rules, parliamentary practice as laid down in Jefferson's Manual, is hereby adopted.

## XXVII.

The time of the meeting of the Senate shall be 11 A. M., of each day, (Sundays excepted,) and in case any other is named, it shall be applicable only to one day, and shall not affect this rule beyond the day named for a different hour of meeting.

## XXVIII.

The rooms, passages, and buildings set apart for the use of the Senate, shall be under the control and direction of the President of the Senate, and he shall have the control and direction of the journals, papers, bills, &c., of the Senate. He shall see that all officers of the Senate perform their respective duties. He shall have the power to appoint the necessary pages and porters of the Senate. Places may be assigned to Reporters by the President.

## XXIX.

When any member is absent without the bar of the Senate, when his name is called, on the call of ayes and noes on any vote about to be taken, his vote shall not be received, unless unanimously agreed to by the members present; nor shall

a member be counted on a division of a vote, who was absent or without the bar of the Senate without leave.

## XXX.

Any rule may be suspended by a concurrence of two-thirds of the members present; and any additional rule or amendment of a rule, may be made by giving one day's notice, and the concurrence of two-thirds of the members present.

## XXXI.

All bills on a second reading, shall first be considered by the Senate in the same manner as if the Senate were in Committee of the Whole, before they shall be taken up and proceeded on by the Senate, agreeably to the Standing Rules, unless otherwise ordered.

## XXXII.

The final question upon the second reading of every bill or resolution originating in the Senate, and requiring three readings previous to being passed, shall be — "Shall it be engrossed and read a third time?" and no amendment shall be received for discussion at the third reading of any bill, resolution, amendment or motion, unless by unanimous consent of the members present, but it shall at all times be in order before the final passage of any such bill or resolution, to move its commitment under special instructions, and should such commitment take place, and any amendment be reported by the Committee, the said bill or resolution shall be again read a second time, and considered as in Committee of the Whole, and then the aforesaid question shall be put.

## XXXIII.

The titles of bills, and such parts thereof only, as shall be affected by proposed amendments, shall be inserted in the journals.

## XXXIV.

The proceedings of the Senate when not acting as Committee of the Whole, shall be entered on the journal as concisely as possible, care being taken to record a true and accurate account of the proceedings; but every vote of the Senate shall be entered on the journal, and a brief statement of the contents of each petition, memorial, or paper, presented to the Senate, shall also be inserted in the journal.

## XXXV.

Messengers are introduced in any state of business except while a question is being put, while the ayes and noes are calling, or while the ballots are counting.

## XXXVI.

In case of any disturbance or disorderly conduct in the lobbies, the President, (or



Chairman of the Committee of the whole Senate,) shall have power to order the same to be cleared.

## XXXVII.

The previous question shall be in this form: "Shall the main question now be put?" It shall only be admitted when demanded by a majority of the Senators present, and its effect shall be to put an end to all debate, and bring the Senate to a direct vote upon amendments reported by a committee, if any, upon pending amendments, and then upon the main question. On a motion for the previous question, and prior to the seconding of the same, a call of the Senate shall be in order, but after a majority shall have seconded such motion, no call shall be in order, prior to a decision of the main question.

## XXXVIII.

On a previous question there shall be no debate. All incidental questions of order, arising after a motion is made for the previous question, and pending such motion, shall be decided, whether on appeal or otherwise, without debate.

## XXXIX.

A President *pro tempore* shall be elected, who shall, in the absence of the President, take the Chair and call the Senate to order at the hour of the meeting of the Senate, and have the same power as the President.

## XL.

When the Senate is equally divided, the Secretary shall take the decision of the President.

## XLI.

A Sergeant-at-Arms shall be appointed to hold his office during the pleasure of the Senate, whose duty it shall be to attend the Senate during its sittings, to execute the commands of the Senate from time to time, together with all such process, issued by authority thereof as shall be directed to him by the President. The actual expenses of the Sergeant-at-Arms for every arrest, for each day's custody and releasement, and for traveling expenses for himself or special messenger, going and returning, shall be paid out of the Contingent Fund, and no other fees shall be paid beyond his *per diem*.

It shall be the duty of the Sergeant-at-Arms to keep the accounts for pay and mileage of members, to prepare checks, and, if required so to do, to draw the money on such checks for the members, (the same being previously signed by the President and endorsed by the member or person to whom the check is made,) and pay over the same to the member or person entitled thereto.

## XLII.

No bill or other matter shall be printed, without first being specially ordered by the Senate, and the Sergeant-at-Arms, shall certify to the reception by the Senate of all such printed matter, and the quantity, before payment shall be made or bills audited; and maps, accompanying documents, shall not be printed under the general order to print, without the special instruction of the Senate.

Two hundred and forty (240) copies of each shall be printed of each document or other matter ordered, unless the Senate specially direct a different number. In filling up blanks the least sum or number, and the shortest time shall be first put.

### XLIII.

It shall be the duty of the Doorkeeper to prohibit all persons except Senators, Members of the Assembly, Officers of the two Houses, and such Reporters as have had seats assigned them by the President, from coming within the bar of the Senate, unless invited by the Senate through the President, and to arrest for contempt, all persons outside of the bar, or in the gallery, found engaged in loud conversation, or otherwise making a noise, to the disturbance of the Senate.

Mr. Shaw moved to strike out the word "eleven," in 27th rule, and insert "ten," on which the ayes and noes were demanded by Messrs. Shaw, Carpenter, and Burnett, with the following result:

#### AYES.

Messrs. Ashley, Burnett, Bynum, Carpenter, Mesick, Shaw, Soule, Sullivan, Waite, Wilson, Walkup.—11.

#### NOES.

Messrs. Bell, Coffroth, Crandall, Chase, De La Guerra, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McGee, Melony, Norman, Tilford, Taliaferro, Westmoreland.—18.

So the motion was lost.

Mr. Mandeville offered the following amendment to the 30th rule:

"The provisions of this rule shall not apply to the thirteenth standing rule of the Senate.

Lost.

Mr. Mandeville offered the following amendment to the 13th rule:

Strike out "unanimously," and insert "by a two-third vote."

Carried.

On motion, the report as amended, was adopted.

On motion of Mr Coffroth, it was ordered, that two hundred and forty copies of the Standing and Joint Rules be printed.

Mr. Ashley introduced the following resolution:

*Resolved*, The Assembly concurring, that on Friday, the 9th instant, at 12 o'clock M., at the Assembly Chamber, the Senate and Assembly will meet in Convention for the purpose of opening and publishing, in the presence of both Houses, the returns of the vote of the people upon the proposed amendment to the Constitution, which amendment was submitted to their vote, by an Act, approved April 19th, 1856

Adopted.

Mr. Dosh gave notice, that he would at an early day, introduce an Act to fix the time of holding the terms of the District Court of the Ninth Judicial District of this State.

Mr. Fiske gave notice, that at an early day he would introduce a Bill to repeal the Charter of the town of El Dorado.

Mr. Burnett gave notice, that at an early day he would introduce a Bill, entitled an Act amendatory of, and Supplementary to "An Act, entitled an Act to create the Office of State Printer, and to define the duties, and compensation thereof, and to provide for the time and manner of election," passed May 1st, 1854.

The Special Committee appointed to wait upon the Governor, made the following Report:

*Mr. President :*

The Committee appointed on behalf of the Senate, on the Concurrent Resolution to wait upon his Excellency the Governor, and inform him of the organization of the Senate and Assembly, report that they have discharged their duties, and were informed by his Excellency, that he would communicate his annual Message in a few minutes.

McCALLUM,  
MERRITT,  
J. O. GOODWIN.

Mr. Tilford introduced the following resolution:

*Resolved*, By the Senate, the Assembly concurring, That the Senate and Assembly will meet in Joint Convention on Saturday, the 10th of January, A. D. 1857, at one o'clock P. M., for the purpose of electing two United States Senators in the place of the Hon. Wm. M. Gwin, whose term expired on the 4th of March 1855, and of the Hon. John B. Weller, whose term expires on the 4th March, 1857.

Adopted.

Mr. Shaw asked leave to introduce an Act, recommending to the electors to vote

for or against a Convention to revise and change the Constitution of this State.

Objection made by Mr. Coffroth.

Upon which, Mr. Shaw gave notice, that on to-morrow, or at an early day, he would introduce an Act, recommending to the Electors to vote for or against a Convention, to revise and change the Constitution of this State.

Mr. Merritt gave notice, that on to-morrow, or at an early day, he would introduce a bill for "An Act amending an Act, defining the time of commencing Civil Actions in this State;" also a bill for "An Act concerning Divorces."

The Annual Message of the Governor, together with accompanying documents, were received through his private Secretary.

EXECUTIVE DEPARTMENT.

January 7th, 1857.

*Fellow-Citizens of the Senate and Assembly:*

It is a source of the highest gratulation that an opportunity of communicating with the assembled representatives of the people is again presented. Under all circumstances, and at any time, this would be a pleasing and a grateful privilege, but the momentous events which have transpired since the adjournment of the last Legislature, invest an occasion like the present with unusual importance. The year just closed has been fruitful of incidents, teeming with equal anxiety and interest, to the Patriot, the Statesman and the Legislator. Not alone with us, but among our sister States, even to the remotest borders of our land, there has been exhibited a scene of turbulence and strife without a parallel in the recorded annals of our nation.

The choice of the people in the recent Presidential contest has been every where proclaimed, and still our flag floats proudly on the breeze, with not a star unsphered—the emblem of that Union, which through all emergency, has ever yet been cherished and maintained. Let us then congratulate ourselves that the storm has passed away, and that the elements of our political existence have subsided to a peaceful calm. May such a destiny attend us in the time to come, and through all shocks of threatened dissolution may the fair fabric of our government still survive.

I cannot refrain at a period so imposing, from expressing the most profound gratitude to the great Ruler of nations for his signal deliverance of our beloved Union from the perils which impended, and his providential aid in frustrating the designs of those who would bury in one common grave, the hopes, the happiness, the welfare of our country.

In our own State, though partial interruptions to our peace have oftentimes occurred, yet, the advancement of the general prosperity has been uniform and certain. Our mines, prolific of the precious metals, still pour forth their glittering treasures to enhance the general wealth; our agricultural productions augmenting in variety, and yield with each succeeding year, astonish the world by their exuberance, and render rich returns to the labors of the husbandman; our trade and commerce, constantly expanding, magnify our influence abroad; our manufactures, growing in extent, increase our home facilities, and furnish an inviting field for the laborer, the artizan, and the mechanic.



The arts and sciences are rapidly developing among us. Education, morality, and religion, those handmaids of free government, wait on the steps of our prosperity, and scatter richest blessings over our path. Our people, multiplying in their numbers, are becoming far more permanent and contented in their habitations and pursuits. The salubrity of our climate, the fertility of our soil, the abundant resources of our forests, are unsurpassed, almost unrivalled in any quarter of the globe. The tone of our society is steadily acquiring a character and elevation which would impart a lustre to the oldest communities of our Republic. Even those interruptions which occasionally happen, only serve to demonstrate the solidity and strength of that foundation upon which the greatness of our government is reared—the enterprise, intelligence and virtue of the people. Yet, notwithstanding this enviable state of public advancement, and the gratifying prospects for the future which it unfolds, there are those among us who seem dissatisfied with our condition as a people. Not content with that gradual and healthful progress in maturing the social, political and moral commonwealth, which is the uniform experience of all organized society—they are disposed to seek in crude experiments, a speedier attainment of those great ends of human government. Although the statistics of criminal punishment among us afford no unfavorable comparison with those of other States, yet certain reformers have arisen, who chafing at the inefficiency of legal sanctions, in meting out condign and proper punishment, arrogantly claim the high prerogative of legislative and judicial power in framing laws and administering the penalties which they inflict. Such as these, are unmindful of the duties which they owe to society, and regardless of the rights and privileges which the Constitution and the laws secure to all. These reflections are painful, yet their truthfulness cannot be questioned.

### VIGILANCE COMMITTEE.

Since the adjournment of the last session of the Legislature, events have occurred which, from their extraordinary character and disastrous consequences, must constitute an epoch in the history of the State;—events, from the very contemplation of which, all lovers of good order and constitutional supremacy, must turn with mingled feelings of sadness and regret.

On the 16th day of May last,—serious apprehensions existing, that a forcible attempt would be made to wrest from the custody of the law, a prisoner confined in the jail of San Francisco on a criminal charge,—in compliance with the request of the Mayor of that city, I proceeded thither, earnestly hoping that I might be serviceable in allaying the prevailing excitement and inducing obedience to the mandates of the law. Upon my arrival, I learned that a numerous body of citizens under the name of “The Vigilance Committee,” was secretly organizing for the purpose of rescuing the prisoner and inflicting on him summary punishment.

Conscious that it was my duty, as Executive of the State, to leave unemployed no honorable means of securing submission to the law, and averting a calamity so deplorable as the collision which was threatened, I proceeded in company with several citizens to the place where this Committee had assembled, and announced it as my purpose to communicate with them, or any person authorized to represent them. One of the Committee thereupon presented himself, whose character and position justified implicit confidence in his claim of authority to speak on their behalf,—which assurance on his part has been strengthened by the conspicuous station he subsequently occupied as their President.

During the interview which ensued, it was distinctly stated that the object of

this Committee was not to violate the law, or resist its legalized authorities; but rather to aid the officers of justice in preventing the escape or rescue of the prisoner; and that they did not contemplate his punishment by taking the law in their own hands.

So loyal were the sentiments expressed, and so positive the declarations made of their designed obedience to law and the legitimate authority, that I could not either disbelieve or doubt them. On the faith of these assurances, arrangements were then made which it was anticipated would, whilst tending to secure the prisoner, also serve to calm the popular excitement and vindicate the majesty of law. These anticipations, however, were but brief in their duration, and scarce a day had passed ere the delusion was apparent. The number of the Committee multiplied from day to day, and incited by the appeals of an incendiary press to deeds of violence, soon the rallying cry was "Death to the Prisoner!" The military organized under authority of the State, with a few noble exceptions, ingloriously deserted the post of honor and of duty, and either abandoned their arms to the State, or yet less honorably, carried them into the ranks of the Vigilance Committee. An inconsiderable number of the military officers sought to escape the responsibility of the solemn oath they had assumed, by a proffered resignation of their commissions, whilst others wholly dispensed with this formality, and swelled the ranks of those who were defying the Constitution and the laws, which they had sworn to honor and maintain. In vain the authority of the Sheriff was strenuously exercised to protect the jail—his orders were disregarded, and defiance hurled in his face by those who were summoned to the duty, whilst the defection in the military ranks, left but a meager dependence on their aid. Thus situated, with but a handful of gallant men, ready if need be, to imperil their lives in the performance of duty,—approached as he was by thousands of armed men, who from the position of the prison, held complete command of it, it became evident that resistance involved the destruction of the guard, without securing the safety of the prisoners, and he was therefore reluctantly compelled to yield to the infuriated multitude the victim whom they sought, and another inmate of the prison.

A few days later, and the utter disregard of the civil authorities which this Committee exhibited, was more openly avowed and manifested by the execution of both the prisoners whom they had seized. Neither did their unlawful proceedings find here cessation. So alarmingly increased was their assumption of power and resistance of the law, that at length, on the third day of June, I was notified by the Sheriff of the County, that criminal process in his hands had been forcibly resisted, and the power of the county was not sufficient to enforce it, and was requested to invoke the military power of the State to his aid.

On the same day I issued a proclamation declaring the City and County of San Francisco in a state of insurrection, under the provisions of Sec. 48, of "An Act to regulate Proceedings in Criminal Cases," passed May 1, 1851, which reads as follows:

"SECTION 48. When the Governor shall be satisfied that the execution of civil or criminal process has been forcibly resisted in any county, by bodies of armed men, or that combinations to resist the execution of process by force exist in any county, and that the power of the county has been exerted, and has not been sufficient to enable the officer having the process to execute it, he may on the application of the officer, or of the District Attorney, or County Judge of the County, by proclamation, to be published in such newspaper as he shall direct, declare the county to be in a state of insurrection, and may order into the service of the State such number and description of volunteer or uniform companies, or other militia of the State, as he shall deem necessary, to serve

for such term, and under the command of such officer or officers as he shall direct."

Thus it will be seen by the law just quoted, and the demand made by the Sheriff, that my duty in the case was plainly indicated, and the issuance of the Proclamation, under the existing circumstances, was imperatively demanded at my hands. In consequence of the limited supply in the State Armory, the want of arms, wherewith to render effective a military force, had already been foreseen, and anticipating the probable necessity of such a force, I had a personal interview with the commander of the United States Military Pacific Division (General Wool) on the 31st of May, and procured his promise to furnish, on my requisition, such arms and ammunition as I might require, so soon as I issued a proclamation of insurrection. In accordance with such understanding, application was made to that officer immediately after the proclamation had been issued, and also at a later period,—both of which applications, for reasons to himself best understood, were peremptorily refused,—and the only arms obtained from that source were a small number of muskets, to which the State was entitled, under the Act of Congress providing for a general distribution of arms.

In the meanwhile, the existence of the Vigilance Committee continued, and assumed the character of a permanent organization, which designed not only to usurp the control of legal authority in San Francisco, but, as indicated by the tone of the press under its special patronage—the inflammatory addresses of its speakers—and the repeated acts of aggression against the most sacred constitutional rights of the citizen,—aimed also to extend its power to the subversion of the State authority; and, if Federal intervention should ensue, the establishment of a government entirely independent of the Union.

In this alarming condition of affairs, I deemed the aid of the General Government necessary to our protection, so far at least as rendering assistance in arms and ammunition was concerned. To convene the Legislature in extra session would involve an expenditure which the condition of our financial affairs could ill afford; and furthermore, the time consumed in assembling that body and the adoption of the necessary measures, might result in the accomplishment of the very evil it was my purpose to arrest. Nor did I deem it necessary that application should be made by the Legislature for such aid as the State required, at least in arms and ammunition, but supposed that the President, on the request of the Executive of the State, had ample power to direct the issuance of arms and ammunition. Entertaining these views I addressed on the 19th of June, a communication to the President of the United States, and deputed the Hon. R. Aug. Thompson and Col. F. Forman, as Commissioners to present it to him, and endeavor to obtain the requisite assistance. This application proved unsuccessful, as will be seen by the reply of the Secretary of State, enclosing the opinion of the Attorney General, as well as the Report of the Commissioners.

The refusal of the President rendered the State authorities powerless to check this usurpation, and for a time the Vigilance Committee held an undisputed sway in San Francisco. It is needless to recount the overt acts which marked the period of their rule. The seizure and employment of State arms—the arrest and imprisonment of a Judge of the Supreme Court—the banishment of citizens—the daily exhibition of bodies of armed men in public places, to intimidate and compel obedience to their authority—these constitute but few of the extraordinary incidents of the time. To arrest the treason and suppress the rebellion, the State was powerless, and the authorities were compelled to calmly await the issue of events. In the meantime, the Executive Proclamation remained until the 3d day of November, when the armed forces of the Vigilance Committee



having been disbanded—the State arms having been restored to their proper custody, and the Judicial authority of the County of San Francisco having notified me that no further difficulty existed in the service of civil or criminal process—the Proclamation was withdrawn—peace restored to the community—legitimate authority reinstated, and the Constitution and Laws, so long defied, again recognized and regarded.

I have deemed it not improper to detail the more important incidents of this period, and without regard to personal considerations, have presented an authentic history of my official acts in this connection, in the conscious belief, not less than in the earnest hope, that by the judgment of the people the shafts of falsehood and calumny will be repelled, and the course of your Executive triumphantly vindicated and sustained. In all that I have done or sought to do, I heeded not the plaudits of the populace, nor feared their threats. I know no *higher law* than the Constitution of my country; and as a rule of action alike incessant and inflexible, the observance of the duties it enjoins, will ever be paramount in my regard as a public officer and private citizen.

## INDIAN AFFAIRS.

During the past year we have not been exempt from difficulties with Indian tribes in different portions of the State, more especially in the exposed frontiers of Siskiyou and Klamath counties in the North, and Tulare in the South. Under an Act of the last Legislature I was authorized to call into the service of the State a company of mounted men for the protection of the citizens of Klamath county. Before orders were issued for the enrolment of such company, intelligence was received from that quarter, which led me to infer that the United States troops would be able to afford all requisite protection, but in order to provide for any contingent need which might arise, I dispatched an agent there, clothed with discretionary powers to authorize the raising of such troops as might be rendered absolutely necessary. These prudential measures I deemed proper to adopt, as the remote distance from the Seat of Government rendered it impossible to determine the exact state of affairs, and it was important that no expenditures should be incurred by the State which could possibly be avoided. The result was, that some weeks later the employment of a volunteer force became indispensable for the proper security of the people. A company of mounted men was enlisted for a period of thirty days, at the end of which time no further need existing for their services, they were disbanded, and the expenses of the expedition paid, leaving a large portion of the appropriation unexpended.

Since then comparative quiet has been maintained among those tribes. In the County of Siskiyou more prolonged and serious difficulties have occurred. In that portion of the State the Indians are numerous and warlike, and as the nature of the country yields them almost inaccessible places of concealment and retreat, they constitute a far more troublesome and formidable enemy than any other Indian tribes within the confines or upon the borders of our State. The prevailing Indian war in Oregon and Washington Territories had extended its influence to our own frontier, and at length these tribes became open and avowed in their enmity to our people. A communication from Gen. John Cosby, commanding 6th Division Cal. Militia, of date 12th June last, explained their defenseless condition. I communicated to Gen. Wool the exposed position of those frontier settlements and urged on him the necessity of sending an additional force of regular troops for their protection. His reply, a few days after, was in substance, that "the regular troops were all employed in



the prosecution of the Indian war in Oregon and Washington Territories. The duty then devolved on the State authorities to render that protection to her citizens which the General Government denied. When later information from the Commander of that Division (Gen. Cosby) exhibited the utterly helpless condition of the whites against hostile Indians, without the aid of a military force, I directed him "to employ what power he possessed under the law of this State, as Commanding Officer of that Division, in affording that protection to the people which their need required." He took the field in person, and with the volunteers under his command, after several severe engagements succeeded at length in compelling the hostile tribes in that quarter to sue for peace. I am gratified to announce that the energy and ability with which the campaign was prosecuted have succeeded in restoring more peaceful relations with those Indians than have heretofore existed, and from the disastrous experience obtained by them I am hopeful that those amicable relations will long continue. The reports of the officer in command, and also the correspondence, will in due time be transmitted.

In the latter part of April last much alarm was manifested by the people residing in the vicinity of the Indian Reservation on the Fresno, at their indications of hostility. Dispatches were received urging the employment of a military force, but as there was already a considerable number of U. S. troops in that section, I did not deem it proper to comply; but as an independent volunteer company was already organized under the militia law of the State, I furnished them with the requisite arms and ammunition, which in the event of hostilities would render their services available. After this the application for authority to raise a volunteer force for this service was repeated, but so conflicting were the reports which reached me that I determined to dispatch Edward F. Beale, Brigadier General First Brigade 3d Division, (embracing the scene of those disturbances) with full power "to adopt such measures and policy as he might regard necessary." Those orders were issued on the 4th day of May, and it is exceedingly gratifying to find his mission attended with such agreeable results. He employed no military force, but instead, formed treaties of peace with the disaffected tribes, which completely restored amicable relations, and thus far they have been preserved. Too much credit cannot be awarded Gen. Beale for the eminently valuable services he rendered the State in the successful prosecution of his mission, without having resorted to more hostile measures.

At the present time there exists a state of peace and quietude with the various Indian tribes in our State, scarcely known since the formation of the Government. This is gratifying to behold, and its prolonged continuance will greatly serve to facilitate the development of additional sources of wealth among those unexplored sections which are inhabited by Indian tribes, whose hostility has hitherto prevented our people from occupying. Yet, notwithstanding these gratifying evidences, I am apprehensive, from the condition of the Indians in this State, and the policy of the Government in their management, that ere long we will witness a renewal of those hostilities which have so much retarded the settlement of this country, and that we shall thus alternate from peace to war, until either the Indians shall have been exterminated, or some other policy adopted by the Government. The system which has been adopted by the Federal authorities for the California Indians, whilst in some measure it may seem exceedingly humane—yet, has proved not only most destructive to them, but, of incalculable injury to us. In the later experience of the General Government, never has it been their policy or practice, to establish Indian Reservations in immediate proximity to the white settlements, or within the limits of a sovereign State. The reasons are obvious, and why the contrary course

should be adopted here, I know not. So long as the Indians remain within our borders, whether established on reservations or not, must we expect to witness sudden outbreaks among them, in the end involving expenditures of treasure incalculable—the destruction of human life, the insecurity of property, and retarding the growth and prosperity of our State,—and this too in most instances, probably, where the aggressions will be found to have been committed by our own people. No laws we can enact will effectually prevent those wrongs, nor their continued recurrence, until a home has been furnished our Indians among the tribes beyond the Sierra Nevada. The present policy of colonizing them in our midst was commenced under Mr. Fillmore's, and pursued under the present Administration. It is not too late for the evil to be remedied. It is true this cannot be accomplished short of years—but the sooner it is resolved on, the earlier the people will be rid of this great grievance. In a few months a new Administration will assume the direction of the Federal Government, and to that, as well as to the present authorities, let the voice of the Legislature be addressed, in determined remonstrance against the present system. Surely our appeals will not be disregarded.

### FINANCES.

At no former period of our history has the time existed when the subject of State indebtedness attracted such universal attention as at the present moment, and a like degree of solicitude been manifested in the public mind, regarding the policy which the present Legislature will pursue in relation to this important matter.

An examination of our financial condition irresistibly forces upon us the conviction that we have been progressing rapidly towards a condition of bankruptcy and ruin, and seemingly without making an effort to arrest the downward progress of events. From year to year the expenditures have increased far in advance of the receipt, and we have been content with issuing bonds to supply the deficit without inquiring whether such bonds were valid. True, at times the illegality of such acts were questioned and doubted, yet those doubts and inquiries were permitted to slumber, until there had been sent forth in the money markets of the world, millions of our securities, when the startling discovery is made, that such obligations are unauthorized, and the people of the State are not responsible for their payment. The condition to which the credit of the State is reduced, and the integrity of our people subjected, by this state of facts—with all the present and future wants of the Government, now devolve on you most responsible labors, and the exercise of cautious deliberation, in determining the course of policy which you shall adopt. It becomes a matter of vast moment for your guidance in the discharge of those duties that an accurate exhibit be presented not only of our existing indebtedness, but also of the sources of revenue which we have heretofore relied upon, in the administration of State affairs. By such an examination of those matters as renders the information reliable, I am enabled to present you with a statement of our financial condition on the 1st day of the present month.

Amount of cash in Treasury, July 1, 1856,	-	-	\$132,644 10
Amount received from July 1, to January, 1857,	\$469,236 17		
Of this amount paid in warrants, -	-	115,641 07	
			<hr/> 353,595 10
Total amount of cash and receipts from July 1, to January 1,			\$486,239 20
Payments made from July 1 to January, 1st 1857,			<hr/> 273,834 93
Balance of cash in Treasury on January 1, 1857, -	-		<hr/> \$212,404 27

Of these amounts, there belongs to General Fund,	\$82,117 99	
Interest and other funds, - - - - -	- 130,286 28	
		<u>\$212,404 27</u>

On the 1st day of January, the indebtedness of the State, including the entire Funded Debt, Controller's Warrants outstanding, (the State Prison Warrants inclusive,) also warrants to be drawn for salaries due, balance of the War Debt not assumed by the General Government, and the School Debt was as follows:

Three per cent. Bonds, (probably lost,) - - -	6,088 95	
Bonds of 1851, due in 1860, - - -	150,000 00	
" 1852, " 1870, - - -	1,389,600 00	
" 1855, " 1870, - - -	700,000 00	
" 1856, " 1875, - - -	984,000 00	
Total amount of Funded Civil Debt,	\$3,229,688 95	
Outstanding Controller's Warrants, (including the State Prison Warrants, \$175,367 34, the payment of which has been prohibited) - -	404,447 12	
Warrants to be drawn for salaries accrued, - -	24,374 60	
Balance of War Debt not assumed by General Government, - - - - -	218,020 91	
School Fund Debt, - - - - -	467,000 00	
		<u>\$4,343,531 58</u>
Amount in Treasury in cash, January 1, 1857, - -	- 212,404 27	
Excess of expenditures over receipts since the organization of the State Government, - - - - -	- \$1,131,127 31	
Of the foregoing amounts, as already shown, the State Prison Warrants issued illegally, - -	\$175,367 48	
The balance of War Debt which will probably be paid by the General Government, - -	218,020 91	
School Fund debts, owing by the State to School Fund, and represented each year by the interest collected, - - - - -	467,000 00	
Three per cent. Bonds, required to be presented for payment, but have not been, and are probably lost or destroyed, - - - - -	6,088 95	
Amounting to, - - - - -		<u>\$86,477 34</u>
Leaving the amount of valid indebtedness against the State, and on which it is necessary to make immediate provision for interest, and the gradual liquidation of principal, - -	- [\$3,264,649 97	
To which may be added an estimated excess of expenditures over receipts up to 1st July, 1857, - - - - -	- 300,000 00	
Amount of legal indebtedness on the 1st July, 1857, principal and interest of which has to be provided, - -	- \$3,564,649 97	
Bonds issued in 1851, 1852, 1855, and 1856, \$3,223,600 00		
Valid outstanding Warrants, - - - - -	229,079 64	

Warrants to be drawn,	-	-	-	24,374	60
Deficiency to July, 1857,	-	-	-	300,000	00
				<u>\$3,777,054</u>	<u>24</u>
Deduct cash in Treasury,	-	-	-	212,404	27
					<u>\$3,564,649 97</u>

Of the foregoing amounts, the Civil Funded Bonds (\$3,223,600 00) bear interest at 7 per cent. per annum, payable semi-annually in New York.

Interest and exchange,	-	-	-	-	\$232,421 56
Interest at 7 per cent. per annum, collected by special tax on the School debt,	-	-	-	-	<u>32,900 00</u>
Interest to be paid annually,	-	-	-	-	<u>\$265,321 56</u>

It will be seen that on the 1st day of July next, there will be valid outstanding Controller's Warrants to the amount of \$553,454 24, to be provided for, which amount will include all the estimated State expenditures for the present year, up to that time.

Of the Funded Debt, the principal on the bonds issued in 1851,					
has to be paid in three years,	-	-	-	-	\$150,000 00
The bonds of 1852 and 1855, in thirteen years,	-	-	-	-	2,089,000 00
The bonds of 1856, in eighteen years,	-	-	-	-	984,000 00

The amount of taxes collected on real and personal property for the different purposes of Government, at 70 cents on the hundred dollars of taxable property, (exclusive of the cost of assessing and collecting,) amounts to, in round numbers, \$400,000 00 collected for the following purposes:

Interest and Sinking Fund on Bonds of 1851, 5 cents on \$100,	-	-	-	-	\$28,570 00
Interest and Sinking Fund on Bonds of 1852, 13 cents on \$100	-	-	-	-	74,100 00
Interest and Sinking Fund on Bonds of 1855, 6 cents on \$100,	-	-	-	-	34,200 00
Interest and Sinking Fund on Bonds of 1856, 10 cents on \$100,	-	-	-	-	57,000 00
Interest on School Debt, 4 cents on \$100,	-	-	-	-	22,800 00
Interest on State Prison Bonds, 1 cent on \$100,-	-	-	-	-	5,700 00
Interest for General purposes, 31 cents on \$100,	-	-	-	-	<u>177,630 00</u>
					<u>\$400,000 00</u>

The State Prison Bonds having all been paid, the tax will no longer be required for that purpose.

Shown before, total amount of Interest and Exchange to be paid annually,	-	-	-	-	\$265,111 56
Amount collected for Interest purposes,	-	-	-	-	<u>822,370 00</u>
Deficiency in Interest Fund,	-	-	-	-	<u>42,741 56</u>



Interest and Exchange, to be paid annually, -	\$265,321 56
Expenses of the State Government from 1st January, 1856, to January 1st, 1857, -	\$976,147 76
<hr/>	
Total amount of expenses of the Government for 1856, including interest on Funded Debt, - - - -	\$1,241,469 32
Total amount of receipts from January 1st, 1856, to January 1st, 1857, including Interest Fund, - - - -	887,473 48
<hr/>	
Excess of expenditures over receipts during the year 1856, -	353,995 84
<hr/>	

From the foregoing it will be discovered that the debt for which the State is honorably bounden, (exclusive of the School Fund,)	
on the 1st day of January, 1857, amounts to - -	\$3,264,649 97
And on the 1st day of July next, will be incurred -	300,000
<hr/>	
Making a total of - - - - -	\$3,564,649 97

Whilst the means now provided by law for the payment of the interest on this debt only amounts to - - -	\$222,370 00
There is a deficiency on the interest account of - -	42,741 56
<hr/>	
Which has to be supplied from the General Fund to make -	\$265,111 56
—Being the interest on funded bonds and School Fund.	

The same Exhibit shows the expenditure for the year 1856, in- cluding interest, to be - - - - -	\$1,241,259 32
And the receipts in the Treasury for the corresponding period,	887,473 48
<hr/>	
Leaving a deficiency during the year, of - - -	\$353,785 84

With these facts before us, and the known necessity of indicating the course to be pursued in relation to our indebtedness, the question now arises, what shall be adopted with reference to it? Answering as your Executive, and echoing the sentiments which I believe are entertained by those whom we alike represent—the people of the State—I would say, *Pay the Debt*,—by those means the Constitution of the State prescribes. Pass an Act, at the present session of the Legislature, legalizing the outstanding bonded indebtedness, permitting Controller's Warrants issued after the 1st day of January which may not be redeemed prior to 1st of July next, to be funded under the Act of 1856, alike with the warrants issued prior to January, 1857; and a law embodying those features, present to the people for their ratification or rejection, at the next General Election.

Yet another duty devolves on you, in the preparation of such an Act, as will effectually remove the doubts now existing, that our obligations will be honorably met. The means of payment of both principal and interest of the debt, must likewise be provided in the law thus submitted to the people.

Proper amendments made to the Revenue Laws, will quite double the amount of taxes now collected on real and personal property. A careful estimate of the returns from the different counties of the State, show that not more than one-half the assessments are collected. This can be remedied by the adoption of more stringent measures, in relation to the collection of tax on personal property; also

such amendments as will render valid, titles acquired on tax sales of real estate, more especially the latter.

It has been a mooted question, whether, in fact, the State has authority to tax *any* lands, under the conditions contained in the Act of admission into the Union, in connection with the law of Congress, which regards all lands in this State as public domain, until such title is confirmed and a patent issued. Proceeding upon this pretense, many of the largest landholders refuse payment, and actuated by the same fears, no person can be induced to purchase at tax sales. To remove the doubt which may exist on these points, I would suggest that you urge upon our Senators and Representatives at the present session of Congress the passage of an Act allowing the State to tax all such land claims, whether patents have been issued or not; and to your consideration, furthermore, I would present the propriety of asking a like privilege of taxing any and all public lands within this State which may be occupied, or cultivated, to the same degree as if they were private lands; this however, on such conditions as shall not serve to alienate the rights of the General Government. There would be then a more general distribution among the people of the burthen of taxation, which whilst reducing the onerous exactions of a portion of the people, would not be exacting more from those thus taxed than they should contribute as citizens of the same State towards the maintenance of Government.

The law as it now exists renders a tax deed *prima facie* evidence that all the requisites of the Act have been complied with, and the *onus* of establishing a non-compliance with its requirements devolves on the adverse party.

The inattention we find so often given to the various requisites of the law, by the officers charged with the assessment and collection of revenue, renders this, not a difficult matter. The result is, that this feature of the law, is of but slight aid in securing more prompt payment of taxes.

I would recommend the adoption in substance, of the following amendment: Certificates or deeds, of real estate, sold for taxes, to be received in all courts as *conclusive* evidence of a compliance with the requisites of the law, regulating the assessment and collection of revenue, unless the claimant shall within thirty days serve a notice that he will contest the legality of such sale—the notice to be filed in the County Recorder's Office. It is proper that exceptions of a beneficial character be made in favor of minors interested in such real estate. Real property should likewise be assessed by minute sub-divisions of quarter sections as rapidly as the lands are surveyed by authority of the Government. Large land claims will be so reduced to small quantities that it will be within the power of those persons limited in means, to purchase at such sale, whilst now it is quite impossible to find an individual who is willing to bid the amount of taxes on an extensive land claim.

Another amendment I am confident will save to the State a large sum of money, both in the diminution of expense, and increase of collection. Allow the assessor payment for his services, with a certain per centage on the amount of taxes collected. As it now is, they are paid a *per diem* allowance, at rates, which at the present time are enormous. Neither have they that especial interest, whilst they are rewarded with a daily compensation, in securing like complete assessments, as if paid in the manner proposed. The mode of payment suggested would most effectually remove this difficulty. The per centage should *increase* rather than *diminish*, but at such a rate as will only secure reasonable compensation for the services rendered. The same amendment should be likewise applied to the collector of taxes. Thus, both the assessor and collector will have a direct interest in securing the largest amount of revenue and prompt payments.

With these proposed amendments and the requisite consent from the General Government to levy a tax on public lands, the property tax of the State will at no distant period more than double the present sum realized. In fact I can with con-

fidence predict such results as will justify us in relying solely on the tax for interest purposes now imposed on real and personal property as the means of paying the interest on the public debt; and, also, will secure a Sinking Fund, which, with the additional sum of fifty thousand dollars per annum from the General Fund will be able to meet the payment of interest promptly, and at the maturity of each successive issue of our Bonds will readily furnish the means of liquidating the principal of such indebtedness.

For the more immediate purposes of paying the expenses of government, in addition to the assessment of 31 cents on the hundred dollars of taxable property—realizing but \$177,630—our chief dependence has heretofore been on the foreign miners' tax, poll tax and licenses. By the adoption of the amendments already suggested we would be able to derive at least \$300,000 from real and personal property tax. The receipts from poll taxes, although but about \$63,000, would by proper care in enforcing its collection realize twice that amount. The law in relation to foreign miners' tax should be so modified that a larger proportion of it should go to the State. As it now is, the State is subjected to all the expenses of blanks, the printing and clerical force, costing a large amount, yet the State receives but one-half of the proceeds, in the past year realizing only \$187,000. The State's resources from that item alone should be increased \$50,000. The license laws ought to be so amended as to make a division between the county and State, on each class of license issued, and a more rigid enforcement of those laws provided for.

As it now exists in some counties, the only licenses issued are those, the entire proceeds of which are paid into the County Treasury. These amendments will add \$400,000 to the annual income of the State, and with the other miscellaneous sources of increasing revenue, we can confidently rely upon receipts amounting to seven hundred and fifty thousand dollars toward the support of the State Government, exclusive of the interest tax. Without such amendments, or other means devised, the revenue, inclusive of the interest on our Bonds, will not in the aggregate exceed that sum.

Another source of revenue has been frequently resorted to, and might prove beneficial in this State; also be the means of reaching a class of citizens who contribute but little for governmental purposes. I refer to an Income Tax. Such an Act should exempt a certain amount from taxation—say \$1000 per annum. All public officers of every description, State, County or Municipal, should be included in its provisions, and taxed, in proportion to the salaries they receive, at a reasonable rate; such a law would not be unobjectionable, whilst it would secure to the State a handsome addition to its revenues.

It may not be unadvised, whilst seeking the means of restoring our depreciated credit, and providing for a just and economical administration of Government on a cash basis, to seek such sources of revenue as from past experience elsewhere, have proved available, and at the same time, not burdensome to the people. But a single State of the Union, so far as I am advised, has tested the experiment of a "Stamp Tax," and in that instance the imposition of stamp duties, but trifling in amount, has yielded to its Treasury a large sum of money. I would therefore submit for your consideration the propriety of adopting such a law as will impose a stamp on all bonds, bills of exchange, notes or obligations, (except sight checks,) for the payment of money for sums of \$100, or over, with a graduated scale of duties in proportion to the amount. No penalty should be imposed for not employing the stamp, further than to prohibit the maintenance of any action on such instrument.

A law framed on this basis would unquestionably yield a large revenue, and it is well worth the experiment of testing its efficacy, but which, if found seriously oppressive or objectionable, it can be repealed by the succeeding Legislature. In the adoption of such an Act, the time when the same would take effect ought



to be sufficiently deferred, so as to afford ample notification to the people of the existence of the law.

With the proposed amendments to our revenue system, there can be no question of the ability of the State to promptly meet her outstanding obligations, and pay the expenses of the State Government, with the exercise of proper economy in all the departments.

The amounts requisite for this purpose, with a limited session of the Legislature, need not exceed, at the utmost, seven hundred thousand dollars, during the present year; and a yet greater reduction of those expenses, when a cash fund is provided for their payment.

Whilst making the foregoing recommendations, and presenting the financial condition of the State, there is yet another source from whence I am confident by the employment of judicious measures there can be derived a sum of money nearly equivalent to our Funded Debt. I allude to the

### CIVIL FUND.

Between the period of the occupancy of California by the United States Military Forces, and that of our admission as a State into the Union, a large sum of money was collected from the people in the form of military exactions, and duties on imports, which, with the exception of a small amount expended in the civil administration of the Government, including the expenses of the Convention that formed the Constitution, found its way into the treasury of the United States. This is what has usually been denominated the "Civil Fund;" to the possession of which, this State has a most unquestionable right. The attention of our Legislatures has been repeatedly called to it by my predecessors, and those bodies have addressed resolutions of instruction to our Senators and Representatives urging its repayment by the General Government. Thus far, no advance has been made towards its procurement, although earnest efforts have been employed to accomplish it in both Houses of Congress. In the Reports which have come under my observation, having relation to this matter, the amount of this fund is greatly underrated. A careful examination of the books of the Treasury Department at Washington, presents the following as a correct exhibit:—

From the 6th of August, 1848, when Col. Mason received notice of the treaty with Mexico, up to the 12th November, 1849, when Col. Collier, took office as Collector of Customs, at San Francisco, there was received as Military exactions,	-	-	-	\$1,365,187 32
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And from the 12th November, 1849, to the 9th September, 1850, when California was admitted into the Union, there was collected the further sum of	-	-	-	1,603,561 08
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Making a total amount of	-	-	-	\$2,968,748 40
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From this there should be deducted the following:—

On account of the Civil Government, including the expenses of the Constitutional Convention,	-	\$162,236 27	
Expended for relief of immigrants, in 1849,	-	100,000 00	—\$262,286 27

Balance remaining, and paid into the U. S. Treasury,			\$2,706,512 13
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This entire amount, it will be observed, was collected prior to the admission of California into the Union, by the incongruous elements of the Civil and Military Government then exercising authority in the newly acquired Pacific possessions, and when that Government was superseded by the organization of the State, and it was recognized as a member of the Confederacy, the present Government became the legitimate successor of the former, and the moneys which had been collected from the people, and were unexpended in the administration of civil affairs, should have been transferred to it. That large sum is now withheld from us in utter disregard of propriety and justice.

The right of California to this fund was always recognized by the United States officers charged with its collection and disbursement—by the Civil and Military Governor of the Territory—and I may add by the action of the General Government itself, in allowing a portion of the amount to be expended in the Civil Administration of the Territory. To the numerous applications which have been made for the repayment of this fund, the reply has ever been, "An Act of Congress is necessary to authorize it."

In view, therefore, of the condition in which the subject is presented, what measures of legislation can we adopt calculated to facilitate this allowance by Congress? As has already been shown, our funded debt, now amounting to more than three millions of dollars, has been steadily increasing, until the annual payment of interest, in addition to the ordinary expenses of Government, has become a serious burden to the people. The Bonds upon which this interest has accumulated, were issued for want of this very fund, and they are but its representatives to that amount; so that our creditors at home, and abroad, have a right to expect the application of it, when obtained, to the redemption of their Bonds. The State should, therefore, recognize as paramount, the right of our bondholders to this fund, and so legislate as to secure to them its payment towards the liquidation of their claims. The policy I would then suggest is this: Pass an Act authorizing payment to be made of this fund, when allowed by Congress, on our Civil Bonds. Also, authorize the Secretary of the Treasury of the United States to disburse it directly to the holders of these Bonds in rateable proportion. The adoption of a measure of this character will do more to elevate our credit, and impress the world with the belief that we intend to pay our debts, than any other act within the scope of your authority. Besides, we thereby not only incite a more lively interest amongst those who are disposed to acknowledge the justice of our claim against the Government, but, by thus making every bondholder personally interested in the success of the application to Congress, we combine and strengthen influences which cannot fail to prove successful. Provision should also be made for the appointment of a Special Agent, or Agents, with a moderate salary, whose exclusive business should be, the prosecution of the claim, and authentication of the Bonds. This will be found necessary, as the multifarious duties of our Congressional delegation will not permit them to give that special attention to this subject which its importance demands—whilst, consequently they also will render all the aid their time allows. The details of such a law, as a matter of course, must be left to your wisdom and better understanding of the subject. When you have passed an Act of this kind, on the basis of its merits, do not fail to make an earnest appeal to Congress for the simple justice we demand, and I do not doubt that in the end, success will crown our efforts.

It will be perceived that the recommendations I here make, embody substantially the features of the Act passed by the last Legislature, in relation to our War Debt, and the result of this experiment, whereby the larger portion of that debt has been liquidated, when it had been denied so long after the appro-

priation made by Congress,—is at least deserving of some weight in the consideration of this matter.

### NON-PAYMENT OF INTEREST.

It is a matter of extreme regret that we should again have afforded an instance wherein the credit and honor of the State has suffered by the non-payment of interest. As will be shown by the letter of the State Treasurer, accompanying this, he made provision for the payment of the July interest by entrusting Messrs. Palmer, Cook & Co., with the necessary funds long before the interest matured, but from some unexplained cause, the payment was not met, and the credit of the State dishonored. Bonds were taken by the Treasurer as security for the payment of this interest, which are believed to be sufficient to secure it, and I have caused suit to be instituted on them for the recovery of the amount due the State—about seventy-five thousand dollars. It is hoped that a like calamity will not again occur.

### WAR DEBT.

The Commissioners of the War Debt, under the provisions of "An Act concerning the War Debt of the State, and providing for the redemption thereof," approved April 19th, 1856, with the Secretary of the Board, have discharged their duties with fidelity to the interests of the people they represented and most agreeable results in the adjustment of that indebtedness.

The Report of the Commissioners exhibiting the condition of this debt is herewith transmitted. As has been before shown there remains the sum of thirty-nine thousand nine hundred dollars, (\$39,900, interest: \$4,000, of the Bonds issued in 1854, '5 and '6, which were not embraced within the terms of the appropriation made by Congress—also warrants for which Bonds have not been issued, amounting to thirteen thousand dollars (\$13,000,) being in the aggregate fifty-six thousand nine hundred dollars, (\$56,900.) There is also remaining, interest due on the Bonds redeemed by the Secretary of War, the further sum of one hundred and sixty one thousand one hundred and twenty dollars and ninety-one cents, (\$161,120 91.) These sums aggregate, two hundred and eighteen thousand and twenty dollars and ninety-seven cents, (\$218,020 97,) of which, but thirty-nine thousand nine hundred dollars, (\$39,900,) bear interest. Great confidence is entertained, that Congress will at the present session pass an Act recognizing the remainder of the debt and providing for the payment of the same. If this is not done, the State must make provision for its payment, as an act of justice to the holders of those securities.

The duties devolving upon the Board of Commissioners and their Secretary, were much more protracted than anticipated. Their services were valuable, and I would suggest that an additional appropriation of a reasonable sum be made to the Clerk of the Board. As will be seen by reference to the Act, no compensation was provided for one of the Commissioners, (Gen. Denver,) supposing those duties would be performed by him during his attendance as a member of Congress. But that this indebtedness might be adjusted without delay he remained at Washington some weeks after the adjournment of Congress, and gave his undivided attention to the business. Under these circumstances, a proper allowance should be made him for those extra services.

### CONSTITUTIONAL CONVENTION.

The subject of a Convention for the revision of the entire Constitution of the State, is one which has at different periods of time agitated the public mind, and forcible arguments adduced in favor of a radical change in that instrument. There

can be no question but that in many of its essential features great advantages would result to the people from the adoption of important changes which cannot be done by other means than the calling of a Convention for the purpose. The circumstances which existed at the formation of the present Constitution, and the changes which have since occurred in the population of the State, render it exceedingly proper that the matter should be presented in such manner as at least to afford an opportunity of discussing proposed amendments, and of determining by the public voice, whether they desire such changes in our organic law as will require a Convention. One of the most serious objections which in the past time has been offered against such a proposition, was the fears that were manifested in some quarters, that a Convention might form a Constitution, and supersede the present one without submitting the same to the people for their approval. This objection has been removed by the adoption at the last election of an amendment to the existing Constitution which requires a submission to the people of such instrument, and the approval of a majority of the voters before the same can be effective. As a means of securing reforms in our State government, and those quite as desirable in the management of County and municipal affairs, I regard the proposition for a Convention for this purpose as one of great importance, and worthy of your serious consideration. No harm, at least can inure from the passage of a law authorizing them to vote on the proposition, and I therefore sincerely trust that one of your legislative enactments will be the submission of this question to the voters of the State for their determination.

### SWAMP AND OVERFLOWED LANDS.

It is important for the protection of our citizens who have purchased the Swamp Lands of the State, or which were generally recognized as such, that measures be adopted to secure them in their possession, so far as can be, consistently with the rights possessed under the Act whereby the State acquired the ownership to them. The construction given to this law, as will be seen from the letter of the Commissioner of the General Land Office, (hereunto appended,) is such that a large quantity of those lands sold by the State will be excluded from the provisions of the Act. Furthermore, such measures should be enacted as will provide for the designation of the Swamp and Overflowed Lands belonging to the State, so that no uncertainty may hereafter exist, and the purchaser be assured to know that he is acquiring such a title as will not be questioned.

I would recommend the repeal of the prohibitory clause in relation to the sale of certain Swamp and Overflowed Lands, and authorize those previously reserved from sale, to be disposed of on such terms and conditions as may be just to the State, and those persons who have settled upon them. No benefit can result from further withholding them from the market.

### SCHOOL AND OTHER LANDS.

Provision should be made by law, for authority to select, on behalf of the State, the School Lands, University Lands, and those granted for the erection of Public Buildings. The longer this is postponed, the less valuable will be the public lands which can be found unoccupied. Your early attention to this subject cannot but prove advantageous to the interests of those you represent.

### STATE LIBRARY.

The Report of the Secretary of State will exhibit the condition and prospects of the State Library in a flattering light. It is truly gratifying to perceive that we are rapidly building up a valuable and interesting Library for the uses of the



present and rising generations. There is no more efficient means for the advancement of a people in intelligence and virtue, than a rich and varied collection of literary and scientific productions. Independent of the attraction which such an exhibition presents to the minds of men as an inducement to enter upon the pursuit of knowledge, it affords great advantages to the legislator, the judge, and the man of science, in the consultation of authorities on any subject requiring investigation. The Library Fund, which was originated in 1852, out of the fees collected in the office of the Secretary of State, and which is devoted exclusively to the purchase of books for the use of the State, is fast realizing the anticipations of its most sanguine advocates. During the past year there was collected from that source the sum of twenty-five hundred dollars. Should the fund continue to be so productive, the shelves of our Library will soon present a numerous and choice selection of works scarcely surpassed in the Libraries of the older States. It will be seen from the Secretary's Report that a catalogue of from two to three thousand volumes, in addition to those now in the Library, was ordered by him some months since, and their arrival may be expected in a few months. The books so ordered are standard works of highest authority, as are those which now adorn the shelves of our Library. This numerous collection of books has been no tax upon the Treasury of the State, and will not be, so long as the present system is pursued.

It will be seen, however, that although there is a rapid increase in works of a general character, the earlier Laws and Judicial Reports of our own State have become nearly exhausted. It appears that the Laws of 1850, 1851, 1852, 1853, and the Compiled Laws, have become so scarce as to preclude the possibility of furnishing the Officers and Justices of the Peace, entitled to them, with copies, and that frequent and loud complaints are made in different portions of the State for want of them. Under such a state of things, it becomes your duty to adopt such measures as will supply the necessary wants of the State in this respect.

### INSANE ASYLUM.

An appropriation was made by the last Legislature for the erection of an additional wing to the Insane Asylum.

The work has been completed in accordance with the design of the law, and now presents as comfortable a home for that unfortunate class of our people as can be conveniently provided or found elsewhere. This charitable institution, intended to relieve the sufferings and misfortunes of our fellow-beings, reflects creditably on the beneficial design of its projectors, and should be supported and cherished by the State. I regret to say serious accusations have been made against the former Resident Physician in connection with the management of the institution, and it is alike due to the State and accused party, that a thorough investigation be had in relation to those charges. A more detailed statement of the condition and necessities of the institution will in proper time be presented to you in the Report of the Resident Physician and Trustees.

### AMENDMENTS TO THE LAWS.

I would now call your attention to certain changes and modifications for the improvement of our system of laws.

#### ATTACHMENT ACT.

The Attachment Act of 1851 needs material modification. By its provisions "an attachment may issue on any debt due by express or implied contract made



or payable in this State, and not secured by mortgage." I am confident this is the only State where an Attachment law is found of such rigorous provisions, and certainly no peculiar reasons can be offered why it should exist here. A process of this summary character should only be issued under peculiar circumstances and for special reasons—certainly more than the mere fact that one is indebted, and at the time the debt becomes due, cannot promptly make payment. It is too often made the instrument of oppression, as it can readily be employed by the unrelenting creditor; and instances are constantly occurring where by its operation the property is sacrificed, business destroyed, and credit ruined by the priority of lien obtained by some creditor more vigilant or less indulgent than others. Its stringent features afford every inducement to employ it, when probably the debtor is in a condition most needing lenity from his creditors. Again, the great facility with which a debt may be secured under this law, begets recklessness in the trading community by the bestowal of their credit, and tends to render more numerous the failures which so frequently occur in business, and by which the public in the end are generally the sufferers. The present law also constitutes tempting opportunity for collusion between parties, whereby the larger portion of creditors may be defrauded of their just dues. Indeed, it would be difficult to frame a law which combines so little of benefit to either the debtor or creditor, and which would afford equal facilities for fraud and collusion, as does the present Attachment law, and so manifestly injurious has been its operation, that public sentiment is unquestionably in favor of radical changes being made in it. I would recommend a return to the provisions of the Attachment law enacted in 1850, which was superseded by the present Act. By its provisions an attachment could issue only in the following class of cases :

" 1st. That the defendant has absconded, or is about to abscond, from this State, or that he is concealed therein to the injury of his creditors; or,

2d. That the defendant has removed, or is about to remove, any of his property out of this State, with intent to defraud his creditors; or,

3d. That he fraudulently contracted the debt, or incurred the obligation, respecting which the suit is brought; or,

4th. That the defendant is a non-resident of the State; or,

5th. That the defendant has fraudulently conveyed, disposed of, or concealed his property, or a part of it, or is about fraudulently to convey, dispose of, or conceal the same, or a part of it, with intent to defraud his creditors."

The law should also permit all indebtedness on express or implied contracts, whether executed in the State or out of it, to be embraced within its provisions.

#### INSOLVENT LAW.

Laws for the benefit and protection of those who may become bankrupt, with such beneficial restrictions provided, as will effectually guard against recklessness and fraud, will be of no positive injury to the public, and yet be the occasion of conferring incalculable benefit on worthy individuals; but the present law for the relief of insolvent debtors, provides the means so effectually of shielding the dishonest debtor, and defrauding the creditor, that I do not hesitate to earnestly recommend the immediate repeal of it—or that it be essentially amended. In the following particulars, I would suggest amendments:

The application to be made by publication three months next preceding the time of filing the petition. This will give sufficient notice to creditors, also prevent the secrecy with which such proceedings may now be conducted.

Likewise require with the petition of the insolvent, to be filed a written con-

sent to his discharge, from a number of his creditors representing at least a moiety of his indebtedness.

Another amendment I would suggest will tend materially to secure the proper disposition of funds in the possession of public officers, that is, to exclude all persons from the benefits of the Act, who are either principal or surety, on account of any indebtedness growing out of any bond or obligation executed by them in such capacity.

With these amendments, I am inclined to believe that few fraudulent applications will be made, and that no person can then obtain a discharge from his debts, unless properly entitled to it.

#### SOLE TRADERS.

In this connection I would suggest that the Act of 1852, authorizing married women to transact business in their own names as Sole Traders, be so amended as to prevent a collusion between husband and wife, for the purpose of shielding property justly liable to the debts of the husband. I am aware of the necessity and importance of securing to the provident, industrious wife, the proceeds of her earnings, as against the prodigality and recklessness of a worthless husband; and regard the object for which the law was passed as highly laudable and politic. But whilst on the one hand the wife should be protected we should, on the other, be careful not to create temptations to dishonesty and fraud by loose and latitudinous provisions of law which do not in fact express the true object intended by the Legislature. To subserve the beneficent purpose for which alone an Act of this kind should exist, and at the same time to prevent the employment of means obtained from the husband, I would suggest that the present law be so amended as to restrict the wife who becomes a Sole Trader to the conduct of such business as is suitable for her sex; also, that the declaration made by her shall state that no portion of the means employed in her proposed business was derived, either directly or indirectly, from the husband.

#### HOMESTEAD ACT.

I also recommend that the Act passed in 1851, "to exempt the Homestead, and other property, from forced sale, in certain cases," be so amended as to require the property claimed as a Homestead should be recorded in the county where situated, and occupied as the usual residence of the family of the claimant. A provision of this kind would give greater security to the exemption of the Homestead, and at the same time constitute a notification to creditors of the property thus exempted from execution. There is no law existing upon the statute book of our State, the object of which meets with my more earnest approval, nor any which I believe more conducive to the permanent prosperity and improvement of the country, than that which secures to the heads of families a home and a freehold upon our soil. It was a wise provision of our Constitution which enjoined on the Legislature the duty of passing a law for the protection of the Homestead from forced sale, yet by such law it should be designated as the Homestead in the public records, and appropriated as the dwelling place of the family,—the use for which the Constitution designed it. By such means the Homestead is placed beyond the reach of the improvident husband and secured to the family, whilst the public are protected against fraud and deception, which can now be practised under the law.

#### DIVORCE.

Our statute relative to Divorces should be so amended as to require that in

all suits for this purpose, no reference of the case can be made, but the trial be had in open Court; and it ought furthermore to be the duty of the District Attorney of the County, in all cases, to appear for the defense, and a reasonable fee allowed him in case of defeating the application. Such provisions would have a tendency to prevent those collusions and combinations between the parties which frequently happen, and would insure a more thorough investigation of the case. It is the true policy of all States to place all reasonable obstacles in the way of the dissolution of that sacred tie which is at once the bond and the blessing of society,—upon the purity and sanctity of which, depend the good order, morals, and happiness of the human family. The more difficult it is made to dissolve the marriage relation, the greater will be the contentment and harmony enjoyed under it.

#### INCORPORATION OF TOWNS AND CITIES.

Quite one-third of the space in the printed volumes of our statutes is devoted to Special Acts of Incorporation for Towns and Cities. This is an evil designed to be remedied by the general Act providing for incorporations of this character, but seems either from inattention or the insufficiency of the law, to have been resorted to in rare instances. To obviate the necessity of expending the valuable time of the Legislature in the passage of similar laws in the future, adopt all needful amendments to the general law as will enable the authorities of any town or city to organize under it, and refuse to entertain any proposition requiring a special Act, except in the case of some important city of the State. By such action you will save a large expense to the State, trouble and inconvenience to yourselves, and relieve the statutes of much superfluous matter.

#### LANDLORD'S LIEN.

An Act securing to landlords a lien on the property of the tenant which may be on his premises, for the payment of rent, would doubtless operate beneficially to both parties—landlord and tenant. The absence of such a law in this State, has induced a custom which is almost universally observed, to require the prepayment of rent—sometimes operating as a great inconvenience and hardship—and which would become essentially changed by the passage of the measure here recommended.

#### SURETIES ON OFFICIAL AND OTHER BONDS.

Existing laws should be so amended as to authorize any person having the approval of official Bonds or recognizances, to examine under oath, parties who may be offered as surety, touching their property and indebtedness. Also provide, that responsibility on any outstanding obligations, whether as principal or surety, be regarded as existing indebtedness of such person. Such provision should be sufficiently comprehensive, to embrace the sureties on bonds of all officers, whether State, County, or Municipal.

#### NOTARIES PUBLIC.

It has been the policy of our laws since the organization of the State to have Notaries Public appointed by the Executive. Believing it to be the true policy of all free governments to curtail as much as may be consistent with the speedy execution of the laws, the influence and patronage of the Executive power, and



not being able to perceive any evils that could possibly flow from it, I am clearly of the opinion that it would be wise to provide for the election of these Officers by the people.

#### ELECTION LAWS.

The Act of 1852, relative to the election of Presidential Electors, authorizes the County Clerks to employ special agents to convey the returns to the Seat of Government. This is believed to be an unnecessary expense to the State, and I consequently recommend a repeal of that clause of the law. The mail is the only medium through which Election Returns should be transmitted.

I also recommend that the General Election Law be so altered as to require the Inspector and Judges of Election to make their returns to the County Clerk within three days after the election, and the County Clerk to forward a certified statement to the Secretary of State within ten days after the election.

The inconvenience and impolicy of allowing an indefinite length of time to the County Clerks to forward the Election Returns to the Secretary of State, was clearly evinced in the late election. Nearly one-fourth of the County Clerks failed to make their returns in time to exert an influence in the result; and had the contest been a close one, this failure might have had the effect of disfranchising one-fourth of the voters of the State, and of casting the vote in opposition to the wishes of a large majority of the people. The possibility of such an occurrence is greatly to be deprecated, and should be guarded against with sedulous anxiety.

#### REGISTRY LAW.

Whilst the elective franchise should be extended to all persons who are recognized by the Constitution as entitled to the privilege, yet it should be the province of the law to guard with anxious care the purity of the ballot-box, and preserve the rights of the legal voter from intrusion, by the adoption of all needful rules and regulations which will effectually prevent frauds or illegal voting. The only remedy for illegal voting now found in the laws of the State is the infliction of a fine. It is evident that this law has hitherto failed in arresting the evil, and it is believed that the frauds perpetrated at the ballot-box and by illegal voting, have in some instances contributed materially towards placing men in offices of honor and trust in our State. To check these evils, more stringent measures must be enacted. I would recommend to your consideration the propriety of so amending the present law regulating elections as to disqualify any person who shall be convicted of illegal or fraudulent voting, from holding any office of honor, trust, or profit, and forever after exercising the elective franchise. Likewise make the same penalties attach to the commission of frauds in counting votes, or illegal introduction of ballots. And that the evidence of fraud may be more readily obtained, and the rights of the legal voter effectually protected, I would also recommend the passage of an Act made applicable to the principal cities and towns of the State, to provide for the Registry of Voters. Ample precaution should be observed in the preparation of such an Act, that the rights of the legal voter may not be jeopardized.

#### DEPOSITIONS IN CHANCERY CASES.

As the law now stands, the deposition of a witness cannot be taken, if he reside in the County where the suit is prosecuted. I would recommend that the law be so amended that in all cases in Chancery the testimony may be taken by deposition. This provision would be more consonant with the character of equity practice, and give greater precision and certainty to the evidence



## PUNISHMENT OF YOUTHFUL OFFENDERS.

Numerous instances have occurred, where boys of tender years have been convicted of offenses, which have consigned them to State Prison. Here they are necessarily brought in contact with the vicious and hardened criminal, and are well prepared, upon the expiration of their term of sentence, to go forth in the world, adepts in the commission of crime of any degree. I much doubt the propriety of criminal laws, which would, except for offenses of an aggravated character, affix a punishment of imprisonment in the Penitentiary, for those under sixteen years of age.

It should be the object of the Legislature to make provision at an early period, for the establishment of a House of Refuge for the wayward and criminal youth of our State, and in the absence of such an institution, I would urgently recommend a change of the criminal law, so as to substitute imprisonment for such in the County Jail, instead of the Penitentiary, unless for some high crime.

## MISDEMEANOR.

In cases of Misdemeanor, where the punishment is severe, it would seem good policy to have the trial in the District Court. Inasmuch as our Supreme Court has decided that the District Court has no appellate jurisdiction, such cases should be made *transferable* from the Court of Sessions to the District Court for trial. It frequently occurs that cases of this kind arise, which are as important, or nearly so, as felonies, and consequently should be tried by a Court of higher character than the Court of Sessions, and in whose adjudication the country will have greater confidence, and justice be more likely to be administered.

For more extended views on this subject, I refer you to the Report of the Attorney-General.

## REGISTER OF DEATHS.

There exists in this State, from the peculiar character of our population, probably greater need for the adoption of such means as will secure a correct registry of deaths, than any other State of the Union. Valuable evidence might be thus preserved, and correct information afforded, of the death of persons, which may, in after time, become important as the means of securing the proper succession to estates. Likewise, such registry as will afford facilities for obtaining correct statistical information regarding the mortality, and thus contrast the healthfulness of our climate with that of other portions of the United States.

## STATE PRISON.

The Act "Creating a Board of State Prison Commissioners, and defining their duties," approved 21st March, 1856, under which a contract was entered into with the present lessee, practically dispensed with the need of State Prison Directors, elected under the previous law, for the government of the prison.

So apparent was it that the services of those officers were unnecessary, that an Act passed one branch of the last Legislature to abolish the office, but the late period when it reached the other House, prevented action being taken on it, so that at the present time, there are, by existing law, two Directors at a salary each of thirty-five hundred dollars per year, paid out of the public Treasury for duties they are supposed to render, but which can without serious detriment, be dispensed with. The office should be at once abolished, and the

existing law so amended as to require the present Board of Commissioners to visit and inspect the Prison at least once a month, and inquire into any complaints which may be made regarding its management. Under the present law those Commissioners are simply required to make those visits "from time to time," which is rather indefinite in meaning. If the Board of Directors is abolished, the duty of more frequent visits, than have hitherto occurred by the Commissioners, will become necessary.

By the law now in force, there is no authority given to require a report or other information concerning the prison. Information of a character absolutely indispensable to the proper administration of the laws, at times may be necessary to procure from the books of the Prison—an instance of which kind has occurred during the past year, but as there was no authority under the law it was not furnished.

I would further urge upon the Legislature the importance of procuring a suitable site for an additional Prison, more central and accessible, to those counties which furnish the greater number of State Prison convicts. It has been long conceded, that the present place is wholly unsuitable for the purpose, and it should be the object of the Legislature, to provide a location, where ultimately the services of the prisoners will be of most value to the State, without endangering the interests of the mechanical and laboring population, by creating a ruinous competition. This is rendered the more important, as under the present contract, the Lessee has obligated himself to erect all buildings and improvements which may be required by the Board of Commissioners, at the present location, or any other which may be selected. It is important that such improvements as are made, be placed where they will be most valuable, upon the expiration of the present contract. Likewise, a more central location, will, in the expense of transporting prisoners, save to the State in one year, quite enough to pay the cost of the necessary grounds—the only expense for which the State would be liable in the erection of an additional prison.

#### PRINTING ACT.

The Act of 1854, relative to State Printing, does not prescribe the time within which the State Printer is required to deliver the Laws to the Secretary of State. This was doubtless an oversight on the part of the Legislature, and should be corrected. The delay in printing the session Laws has become a subject of unusual complaint. I would also suggest the propriety of an examination being made into the subject of State Printing, with a view of reducing both the quantity ordered and price paid. A large amount of printing has heretofore been required by the Legislature, and without having any knowledge of the matter ordered, or the cost of it, until after the work was done. Also, frequently, it occurs that the same documents are printed by the order of both Houses, and the larger portion of which are delivered about the period of adjournment, and even afterwards, which are of no value whatever. I am confident, that the cost of the public printing should not exceed one half the cost of the past year, and with proper amendments made to the existing law, not unjust towards the public Printer; with due precautions on the part of the Legislature, it will not exceed that sum.

#### BOARD OF EXAMINERS.

Under the provisions of an Act "for the better protection of the State Treasury," approved April 16th, 1856, the examiners named in the law, consisting of the

Attorney General, Secretary of State, and Governor, with the Private Secretary of the Governor as Secretary, organized the Board on the 18th day of April. The duties devolving on them requiring an examination, and approval of all claims, (except the salaries fixed by law,) against the State, before the Controller could draw his warrant on the Treasury; also imposing the duty of examining the books and papers in the office of Controller and Treasurer. This law has entailed a large amount of labor on the members of the Board, and at times the performance of exceedingly unpleasant and delicate duties—some of which they have found impossible to perform with any degree of satisfaction to themselves or benefit to the State. The following exhibit will indicate the extent and character of the labors which have devolved on the Board from its organization to the 1st of January, 1857.

Number of claims presented and examined, 855.

Total amount claimed .....	\$373,543 01
"    "    allowed .....	319,880 19

Amount of claims rejected and reduced .....	53,662 82
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The objects which this act was intended to attain, and the general features of it are certainly unobjectionable, unless it be the additional duties which it entails on the members of the Board of Examiners, and I am confident the interests of the State have not, neither can they suffer, when demands are submitted first, for the approval of the Board, and afterwards of the Controller. They are then subjected to the scrutinizing examination of four persons instead of but one, as the laws previously provided. The Controller, after the Board has allowed a claim, possesses the authority to reject or reduce it, the same as under former laws; but can not draw his warrant for an amount exceeding the allowance of the Examiners.

It is believed but few instances have occurred, where claims have been rejected, in whole or in part, which had met their previous approval.

To render, however, fully effective the duties imposed by the Act, it must be so amended as to require a monthly exhibit from the Controller of all warrants drawn, specifically indicating the purposes for which drawn, and by whom; also, that the Treasurer file a monthly statement, setting forth in detail the amounts received and paid out of the Treasury, on what account and to whom, and the amount of cash actually in the Treasury; these statements, under oath, to be filed in the office of the Board of Examiners. With these amendments I presume no difficulty will exist in the performance of the entire duties devolving on the Board.

#### MILITIA.

Your attention is called to the report herewith presented of the Quartermaster and Adjutant General, and many of the recommendations therein made, are worthy of consideration. The laws should provide for a more thorough and efficient organization of the military of the State, else it would be far better to repeal all existing laws on the subject. The present military tax imposed by law, more from the inattention given to its collection, probably, than any other cause, has failed to realize a sum beyond the expense of the blanks furnished to the collectors. More efficient measures should be provided for its collection, if the military organization is to be maintained.

#### MORTGAGES ON PERSONAL PROPERTY.

The present law in relation to mortgages on personal property is attended with great inconvenience to both parties—mortgagor and mortgagee—so far as



relates to certain descriptions of property, which under our laws are regarded as personal. I would therefore suggest that the Act be so amended as to include in its provisions mortgages on boats and vessels navigating the waters of this State; also, Stocks in companies incorporated under the law of this State—the mortgage to be recorded in the county where the property is owned, or in case of Stocks in incorporated companies in the county in which the principal business is transacted; also, in the latter cases requiring a notice of such mortgage to be filed in the office of the Secretary of the Company. In the foreclosure of such mortgage the same general features to be observed in the law as are applicable to real estate.

### PACIFIC RAILROAD—WAGON ROAD.

It is much to be regretted that the General Government has so long delayed necessary action on a subject of such vast importance as that of providing for the construction of a railroad connecting the extreme portions of her Territorial possessions. I regard it of essential importance, whether viewed in the character of affording enlarged facilities for communication between people inhabiting distant portions of the same land—the influence to be exerted upon the commerce of the world, or as an important element to our system of national defense, that the aid of the General Government be given to this noble work. The advantages which we as a people must derive from its construction can be inferred from that universal sentiment of approval pervading all shades of political difference in the State on this subject. There are none who doubt the power of the government to render the necessary aid. The wisdom of such policy has been long conceded, and the universal sanction of the people only awaits the success of the enterprise.

That we may succeed, reliance should not be placed on past effort, neither should we be deluded by the flattering hopes that are now presented, but again let your petition go forth from the Legislative Halls in behalf of the wants, hopes and claims of California in the success of this road. As the construction of a railroad must necessarily occupy years of time, the more immediate and pressing wants can be supplied by an emigrant road, connecting this State with the Valley of the Mississippi. Such a work, with suitable military posts for their protection, would induce the emigration of many thousands of valuable citizens who are now deterred by the perils and hardships of such a journey.

It would unquestionably be more advantageous for the larger portion of our population, that either of these proposed works should enter our country at some central point; yet this is a matter of but secondary consideration, and should not be permitted to mar the success of the enterprise.

I herewith transmit the Reports of the Controller, Treasurer and Secretary of State, Quarter Master General and Attorney General, and your attention is respectfully invited to the suggestions made therein. The Surveyor General and Superintendent of Public Instruction have furnished no reports. I also transmit the Report of the Board of War Debt Commissioners, in which they present an interesting and detailed exhibit of the present condition of that class of our indebtedness.

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I have thus, gentlemen, in obedience to the requirements of the Constitution, "communicated to you the condition of the State, and recommended such matters as I deem expedient." Should these suggestions be carried into effect, by your action, I entertain the firm conviction they will go far towards relieving the State



from present financial embarrassment—perfecting our system of laws, and sustaining our character at home and abroad.

If, however, you should differ with me in opinion in relation to the measures necessary to be adopted, or the policy to be pursued, I sincerely trust that in your wisdom you will be enabled to devise some efficient means of attaining the great end at which we all should aim—making ample provision for the liquidation of the State debt—the maintenance of our name untarnished, and the advancement of the general welfare, by wise and wholesome laws. That such may be the result of your labor, is my earnest prayer and most ardent hope. Holding myself in readiness to second all your constitutional efforts directed to these objects, I commend you and the interests of our common constituency to the superintending care of a wise and bountiful Providence.

J. NEELY JOHNSON.

JANUARY 7th, 1857.

## APPENDIX TO THE MESSAGE.

(A)

### APPLICATION OF THE MAYOR OF SAN FRANCISCO.

SAN FRANCISCO, May 16, 1856.        }  
12 o'clock, M.        }

To Gov. JOHNSON:

I am requested by the Mayor, to ask the Governor to come down to-night. His presence will exercise a beneficial influence in allaying the excitement.

JOHN CRANE,  
Mayor's Clerk.

(B)

### STATEMENT OF GEN. W. T. SHERMAN

Being requested, I make the following statement, being my recollection of certain events in which I took part:

On Friday afternoon, May 16, Mayor Van Ness called on me, stating that he had a telegraphic dispatch from Governor Johnson, to the effect that he would come to the city that night in the Sacramento boat, and being unable himself to go, he requested me to meet him and explain to him the condition of affairs in the city.

I did so and found Captain Garrison and Wm. Neely Johnson, the Governor's brother; we all had an interview at the International Hotel, when it was agreed to go and see the Jail; we found it occupied by the Sheriff, his deputies, the City Police, and the posse of citizens who had obeyed the Sheriff's summons; we carefully examined the premises and became satisfied from the form of the building it-

self, the commanding ground and houses all round, that it could not be defended without an armed force capable of occupying the Jail itself and many houses in its vicinity.

It was manifest in the then state of feeling, that it was utterly impossible to obtain the necessary men for this purpose, and that to save bloodshed and consequent destruction to life and property, that a collision must, if possible be avoided.

We then determined to have an interview with the persons who were known to be organizing the Vigilance Committee. For this purpose we proceeded to the Turn-Verein Hall, on Bush street, where the committee held its session, and were shown into the bar-room on the right of the entrance, when the President of that association joined us.

Governor Johnson asked him what were the purposes of the body of people whom he represented? He first answered, "they wanted Casey." Governor Johnson said "that could not be, as Casey was in the hands of the Sheriff, where he belonged, and he would not consent to his surrender."

The gentlemen then said their object might be answered if they could be assured that Casey would not be removed. This the Governor was willing to do, and after some general conversation on this point it was agreed that a certain number of the committee, not to exceed ten, might be admitted to the Jail, provided the Sheriff consented, and provided the committee would pledge their honors that whilst these men were in the Jail they should act under the orders of the Sheriff, to assist him in keeping Casey safe.

The President of the association then asserted that their purpose was not to violate the law, but to ensure its execution—they were in no haste except they wanted no unnecessary delay—they were willing to wait Mr. King's fate, to abide an indictment by a Grand Jury, a fair trial and a speedy execution of the sentence.

It was even discussed if a jury could be found here, and how long these necessary formalities would take.

Governor Johnson repeatedly assured the President that he would consent to no steps that would be in violation of the law, which he was sworn to execute. The President then retired to consult with the association in the large hall, and soon returned with six other gentlemen, when these grounds were again gone over, and the same general conclusions came to, Governor Johnson repeating several times his desire to see justice done in the premises, but that it must be in conformity with law. The following agreement was then made:

"That ten or less of their men should be admitted in the Jail to act as a guard under the direction of the Sheriff, that no oath was to be exacted of them, but that the honor of the committee was pledged that whilst in the Jail, they should do nothing inconsistent with their duties as an auxiliary guard, that if any change of purpose took place, reasonable notice should be given, their men withdrawn and the Sheriff left in as good position as at that time

"That no violence should be attempted until Mr. King's fate became determined, so as to fix the crime which Casey had committed."

When these points were agreed on we returned to the Jail, when the Governor explained them to the Sheriff, who I believe consented, at all events at two o'clock that night ten men were admitted, several gentlemen of the Executive Committee being along, who assured themselves that Casey was there, and who were as I thought, satisfied therewith. On the following day, Saturday, Governor Johnson again called for me to accompany him to the committee room on Front street, when we again had an interview with another committee of three persons, only one of whom was present the night before.

Their tone and expression were so at variance with the previous night that it was evident a change had taken place. These gentlemen denied almost entirely the substance of the former agreement and asserted a new one perfectly inadmissible.

There being a dispute as to the facts, it was agreed that Captain Garrison should be brought, to testify to that agreement, and on Saturday afternoon we again met the committee composed again of new members, among whom was the President with whom most of the conversation of Friday night was held, when it had to be conceded that reasonable notice of an intention to withdraw their men was stipulated for, and that in place of the usual oath to be administered to the guard the Governor was to rely on the honor of the committee, but it was manifest a change of purpose had taken place, so that the committee agreed again to confer with their body and to communicate the result to the Governor at his room at 8½ o'clock.

I was again present at that last interview, when the committee simply announced their willingness to let the case stand as it was, only promising to give notice to the Governor of their intention to withdraw their men before actually doing it.

I understood Governor Johnson to act as he did from confidence in the private character of the gentlemen with whom our conference was had, and moreover, he was satisfied that it was idle for him to endeavor to procure enough force to guard the Jail successfully, against such overwhelming numbers, and such unusual public sentiment.

MAY 20TH, 1856.

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(C)

#### APPLICATION OF SHERIFF OF SAN FRANCISCO.

SAN FRANCISCO, June 2d, 1856.

To His Excellency,

J. NEELY JOHNSON,

Governor of the State of California:

DEAR SIR:—I have just received your Telegraphic Dispatch, and in reply have to state that on Saturday last a writ of Habeas Corpus was placed in my hands commanding me to take the body of "William Mulligan," who it was represented was detained in custody by a body of armed men styling themselves the "Vigilance Committee," and bring the same before the Hon D. S. Terry, Justice of the Supreme Court of the State of California, forthwith: that I attempted to execute said writ, but was resisted in doing so by a body of armed men and the power of the county is inadequate to resist the armed force, and that there is a combination here to resist the law, which cannot be put down without exercising the military power of the State.

Your obedient servant,

DAVID SCANNELL,

Sheriff of the County of San Francisco.

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(D)

#### PROCLAMATION.

EXECUTIVE DEPARTMENT,

SACRAMENTO, CAL., July 3d, 1856. }

WHEREAS, satisfactory information has been received by me that combinations to resist the execution of legal process by force exist in the County of San Fran-

cisco, in this State, and that an unlawful organization, styling themselves the "Vigilance Committee," have resisted by force the execution of criminal process, and that the power of said county has been exerted and has not been sufficient to enable the Sheriff of said county to execute such process; now, therefore, I, J. NEELY JOHNSON, Governor of the State of California, by virtue of the power vested in me by the Constitution and laws thereof, do hereby declare said county of San Francisco in a state of insurrection; and I hereby order and direct all of the Volunteer Military Companies of the county of San Francisco; also all persons subject to military duty within said county, to report themselves for duty immediately, to Major General W. T. Sherman, Commanding Second Division California Militia, to serve in the performance of military duty, under the command of said Sherman, until disbanded from service by his orders. Also, that all Volunteer Military Companies now organizing, or which may be organized within the Third, Fourth and Fifth Military Divisions of this State, also, all persons subject to military duty in said military divisions, do hold themselves in readiness to respond to and obey the orders of the Governor of this State, or said Sherman, for the performance of military duty in such manner and at such time and place as may be directed by the Governor of this State. I furthermore order and direct, that all associations, combinations or organizations whatsoever, existing in the said county of San Francisco, or elsewhere in this State, in opposition to, or in violation of the laws thereof—more particularly the association known as the "Vigilance Committee," of San Francisco, do disband, and each and every individual thereof yield obedience to the Constitution and laws of this State, the Courts and processes of the Courts, and all legal orders of the officers of this State, and of the county of San Francisco.

J. NEELY JOHNSON.

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(E)

### REQUISITION ON GEN. WOOL.

EXECUTIVE DEPARTMENT,  
SACRAMENTO CITY, Cal., June 4th 1856. }

SIR:—The existence of an unlawful organization in the city of San Francisco in this State, and their forcible resistance by an armed body of men of a legal process and their threats of continued opposition to the legally constituted authorities, compe me in the performance of a duty entailed on me as the Governor of this State to issue the Proclamation herein enclosed.

I regret to say that we are wholly destitute of such munitions of war, as are necessary to render effective the military force called into the service of the State, and our entire dependence is upon you to obtain them—otherwise the efforts which are being made to maintain the law will prove wholly ineffectual.

Therefore I would ask of you to furnish on the order of Major General W. T. Sherman, such arms, accoutrements and ammunition as he may require, or which may be ordered by me hereafter—the same to be returned or deducted from the quota of arms which this State may be entitled to from the United States Government.



For such ammunition as may be issued the State of California will be responsible for its payment.

Very respectfully, your obedient servant,

J. NEELY JOHNSON,  
Governor of California.

To Major General JOHN E. WOOL,

Commanding Pacific Division, U. S. A.

P. S.—The above is forwarded by Col. E. A. Rowe, my Aid-deCamp.

J. N. J.

(F)

### REQUISITION ON GEN. WOOL.

EXECUTIVE DEPARTMENT,  
SACRAMENTO CITY, Cal., June 7th, 1856. }

Sir :—As the Executive of the State of California, in addition to the representations heretofore made you in person and official communications, I would beg leave to inform you that an armed body are now in existence in the city of San Francisco who have resisted by force and threats the service of a writ of *habeas corpus* duly issued on or about the 31st day of May, 1856, by one of the Justices of the Supreme Court of this State, and sought to be served by the Sheriff of the county of San Francisco, of which I had due notice, and a call made upon me for a military force to aid said officer in the performance of his official duties.

In pursuance of the power vested in me as the Executive of the State, I did on the 3d day of the present month, issue my Proclamation declaring "the county of San Francisco in a state of insurrection," and called upon the military force of said county to organize and respond to such demand as might be made on them to aid the authorities of the State and county in the enforcement of their legal authority; also, in said Proclamation demanded the disbandment of such illegal organization or association, known as the Vigilance Committee, and that they render due obedience to the laws; which demand on such illegal organization, I regret to say, up to the present time, has been disregarded and disobeyed, and further threats of violence and opposition to the Constitution and laws of this State, even to the end of attempting the overthrow of the State Government and creating a revolution and civil war, have been and are now made by such organization.

I would further represent that it is now manifest that the power of the military of this State is urgently demanded for the enforcement of the Constitution and Laws, and for that object, a military force is now in course of organization under my sanction and authority. It is a large force we will necessarily have to encounter and for the due protection and maintenance of the authority of the State, I now request of you a sufficient supply of arms, accoutrements, and munitions of war, for the use of the State forces—and I guarantee as the Executive of the State, that the same shall be returned or paid for.

Very respectfully,  
Your obd't servant,

J. NEELY JOHNSON,  
Governor of California.

To Major General JOHN E. WOOL,

Commanding Pacific Division, Benicia.

(G)

## GENERAL WOOL'S PROMISE TO FURNISH ARMS AND AMMUNITION.

SACRAMENTO, CALIFORNIA, October, 17th, 1856.

SIR :—Ordinarily the misrepresentations conveyed through the medium of the press, whether in the guise of editorials, anonymous scribbles, or *letters published by permission*, I have remained content to pass unnoticed, but when a deliberate effort is made to question the truthfulness of statements made by me in an official communication of the character to which you allude in your letter of the 17th ult., and published in the *Alta California* of the 20th, and coming from one whose *position* at least gives more than ordinary consequence to the merits of the controversy, I am constrained from a sense of duty I owe to those I represent, more than to myself personally, to depart from the observance of this rule of conduct and make reply to it. The character of its contents, and circumstances of its transmission and publication, were such that your letter demanded an immediate reply, but when I received it, (two days after it bears date,) the absence of a gentleman whose testimony I desired, with which to refresh your erring recollection, and afterwards my own absence, has necessarily deferred an answer to the present time.

Now, Sir, I beg leave to call your attention to some circumstances connected with our interview at Benicia, on the 30th and 31st days of May, and the 7th of June last.

In the evening of the 30th May, Gen. W. T. Sherman, Gen. D. F. Douglass, my brother, and myself, met you at your lodgings in Benicia. I called your attention to the then existing state of affairs in San Francisco, and advised you that "the object of my visit was to confer with you regarding these matters, and ascertain, if it became necessary for the interference of the State authorities, whether assistance could be obtained from you." To this you replied, "I have but a small number of troops, which are not employed in distant parts of this State and the Territories of Washington and Oregon." I said, "We do not want men, merely arms and ammunition—that I was in receipt of a letter which induced me to believe the next steamer would bring intelligence of the passage of a bill giving to the State 8,000 stand of muskets, and whatever you furnish us, can be deducted from such quota as may be allowed to the State." You said, "under ordinary circumstances, no person but the President can order arms or ammunition to be issued to the State authorities; but, situated as we are here, so far removed from the seat of Government, I don't know but a General of Division would be authorized to do so."

On that particular point but little more was said during the evening. My recollection regarding the conversation which you relate concerning Casey and Cora, and my intentions towards the Vigilance Committee, are widely diverse from yours. I *know* that the language or sentiments which you impute to me I did not use either there or elsewhere. I stated most distinctly that "I *would* interfere whenever officially notified of the existence of a state of insurrection, in the manner pointed out by law." "But to the present time I had not received such information as the law prescribed." Neither can I recall to recollection on that memorable occasion the suggestions and counsel you aver you gave, but instead I well recollect that you *seemed* from your conversation, the most belligerent individual present, and you *did* suggest, you "would want but an inconsiderable number of men to entirely suppress those insurrectionary

movements," and by way of illustration, cited an instance in which "with the aid of but a handful of troops you quelled the mutiny of almost an entire army." I furthermore *do* recollect that our attention during the evening was principally given to your recital of difficulties with the authorities of Oregon and Washington Territories, and the reading of an elaborate article in relation to those matters which you had transmitted for publication to the *National Intelligencer*.

At that time the period was not anticipated by me when I would become the subject against whom you should indulge your notable *penchant* for newspaper letter writing.

We separated for the night, and the following morning the gentlemen named, and myself, in compliance with your invitation, joined you at the quarters of Captain Jones, (if I am not mistaken,) for the purpose of visiting the arsenal. Whilst there you invited Gen. Douglass and myself to take a walk. In our course you enquired, "When I intended issuing a proclamation." My reply was, "As soon as I receive official information of the character I referred to last night, which I expect to be furnished with to-day." Said you, "That's right, I have been thinking over the matter since our conversation last night, and have concluded to furnish you such arms and ammunition you may want, as soon as you issue your proclamation."

In your company we proceeded to the Arsenal and examined the different kinds of arms. You separated from us there, and we during the day visited Mare Island. I communicated the promise you had made me to Gen. Sherman and my brother, and arranged with Gen. Sherman, in the event of the necessity of interference on the part of the State authorities I would make the requisition for the arms and ammunition, through him. For this reason, General Sherman suggested the propriety of having the matter fully understood between us; and, with that object, whilst at the wharf awaiting the arrival of the boat in the evening, I called you and General Sherman aside, and remarked to you: "Now, General, I do not wish any misunderstanding about the arms and ammunition which you have promised us as soon as I issue my proclamation." "I wish to know whether it will be necessary to state in my requisition that they shall be deducted from such *quota* as may be granted the State hereafter, or pledge the State for the payment of such as may not be returned?" You replied: "Never mind; when you want them, issue your requisition on me, and merely state that they shall be deducted from the quantity which the State may be allowed by the Government, and I will attend to it." I left for Sacramento, and as Gen. Sherman says, "I felt no doubt at all on the subject." I may also add, *then* I could not doubt the sincerity of your intentions, and when, a week later, I met you at the same place, (Benicia,) and by your invitation, with other gentlemen, visited your rooms, and in their presence addressed to you these words: "I regret that you are unwilling to furnish the arms and ammunition you promised me," and heard your reply: "When I made you that promise, I had but an imperfect recollection of the law; but when I received your requisition, I examined the subject and found I had no discretion—that such application must be made to the President," really it was beyond conjecture that you would ever *deny* having made the promise at the personal interview I allude to in the letter to the President. After the statements I have made, if you should longer doubt the error into which your memory has fallen, I would beg leave to commend to your attentive perusal the accompanying letters of Generals Douglass and Sherman (so much of the latter as has direct reference to the point in controversy) regarding our interview on the 30th and 31st of May, and that of Col. Rowe, establishing the fact that you *admitted* one week later that you *did* make the promise.

Let me ask you, in view of this overwhelming testimony, is it not singu-



lar that you should resort to the questionable expedient you have adopted in referring me to your letter of refusal, dated 9th of June, as evidence that you did *not* make the promise I referred to as occurring in our personal interview on the 31st of May—a letter written by you *two days after* our last interview, and *nine* days after the time I allege you did so promise. With all due respect I must decline such proffered evidence as disproving my assertions.

Again : After urging your *denial*, you singularly suggest "that even if you did promise as I state, I ought to know that the laws would prohibit its fulfillment, and therefore should not urge you to violate law by complying with the promise." I am much inclined to think you would have regarded in no friendly sense, even an intimation that you knew not the duties and powers conferred on you by law, and am in truth amazed that you should even by accident have admitted you were uninformed on these points, and sought instruction elsewhere. I could but regard one of your age and experience in your profession, clothed by his Government with such responsibilities, as fully competent and qualified to judge of his own power and authority, and when you decided that you could comply with my request, most assuredly it was not for me to question the authority you claimed as a "General of Division." I *did suppose* you would have acted with more prudence than even to *promise* the performance of acts which would transcend your legitimate authority. Those points, however, have ceased to be matters of controversy, and it is of slight moment to either the public or myself whether it was "an examination of the law," or "the outside influences" to which you make allusion, that controlled your subsequent action in refusing compliance with the promises to which you have taken exception.

With the *facts* I have stated, and the corroborative evidence contained in letters accompanying this, I leave you to the reflections you must necessarily experience by the unfortunate dilemma in which voluntarily you have placed yourself.

I am, sir, your obedient servant,

J NEELY JOHNSON.

To JOHN E. WOOL, Esq.,

Brevet Major General U. S. A. Headquarters, Benicia, Cal.

NOTE.—After learning definitely that General Wool refused to furnish arms and ammunition, on the 10th of June I addressed a letter to General Sherman, requesting a statement of the facts connected with our interview, the same to be used in the event of any controversy on the subject. As will be seen, his reply is written on the 11th, but a few days after that interview. J N. J.

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STATE OF CALIFORNIA, CITY OF SACRAMENTO,  
Office of Secretary of State, September 22d, 1856.

To His Excellency, J. NEELY JOHNSON—

DEAR SIR:—In reply to your communication of to-day, I have the honor to state that I believe I was present during the entire period of the interview between General Wool and yourself, on the evening of the 30th of May last, and that no such conversation took place in my presence during that interview, as related by General Wool in his letter of the 17th inst., published in the *Alta California*.



I would also state in reply to your second question, that General Wool did in front of Captain Jones' quarters, in my presence, on the morning of the 31st day of May last, distinctly and unqualifiedly promise you upon the issuance of your proclamation declaring San Francisco in a state of insurrection, he would furnish you with all the arms and ammunition that you might need for the suppression of said insurrection. He also invited you and suite to attend him to the arsenal for the purpose of inspecting the kind of arms he could furnish you.

I am, respectfully, your obedient servant,

D. F. DOUGLASS.

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SAN FRANCISCO, June 11, 1856.

GOV. J. NEELY JOHNSON—

Sacramento City, California.

DEAR SIR :—I have just received your letter of yesterday, and in compliance with your request I will proceed to state the facts and conversation held with General Wool at Benicia on the 30th and 31st of May last. During the afternoon of May 30th, I received a telegraphic despatch from you, asking me to meet you at Benicia that afternoon; I went up in the Sacramento boat in company with General Douglass, your Secretary of State, and met you at Benicia that night. We were in General Wool's room, when you premised by saying to the General that you supposed he knew what was going on at San Francisco, and that in the performance of your duty as the Executive of the State, you might be called on to assist the civil authorities by ordering out the military, and you asked him if in that event you could depend on him for the necessary supply of arms and ammunition. You stated you had letters from the delegation in Congress to the effect, that in all probability the next mail would bring out an order for the U. S. officers to turn over to the State authorities some eight thousand muskets, and that whatever you would call for on this occasion, could be deducted from that number or from the next quota, or that you would pledge the State to pay for what was not returned. General Wool's reply was nearly in these words: "No one but the President of the United States can issue arms to a State in case of insurrection, but here in California we are so far away from the President that a General of Division might assume the responsibility in certain cases, and this may be one." After this a general conversation ensued as to the necessity of issuing a proclamation and of making a direct issue: such as the resistance of some writ in the hands of the Sheriff, by the Vigilance Committee.

The next day, by invitation of General Wool, we all accompanied him to the Arsenal, and whilst there, examined the returns of the Arsenal and commented on the several kinds of arms on hand. I am not certain that General Wool was with us at the time, but he left us at the Arsenal. Soon after you, General Douglass, your brother, and I, rode over to the Navy Yard, and returned to the hotel at Benicia, at 5 p. m. Soon after, the time approaching for the arrival of the boat, you desiring to go to Sacramento, and I to San Francisco, General Wool accompanied us to the wharf; whilst there, you called General Wool aside with me, when you said: "Now, General, can we depend on you for these arms, in case they are needed?" General Wool replied "Yes;"—when you added: "In my requisition shall I state that they are to be deducted from the next quota of the State?"

General Wool said: "*Never mind; when you want the arms and ammunition, send your requisition, and I will attend to it.*" We parted. *I felt no doubt at all on the subject, and made my mind perfectly easy on that score, and was perfectly amazed when, on the 6th of June, at 10½ A. M., your Aide-de-Camp, Col. Rowe, brought me a copy of your communication of June 5th, to Gen. Wool, with a verbal message to the effect that "the General was afraid to trust arms to the Militia of San Francisco in the then state of feeling."* *I could not believe it, and asked Col. Rowe to keep it absolutely a secret from all save yourself, and advised him to return forthwith to Sacramento, and to follow up this matter rapidly to a conclusion.*

Hearing nothing further, on the next day I addressed to Gen. Wool a letter, of which this is a copy:

GENERAL JOHN E. WOOL, *U. S. Army,*  
*Commanding Pacific Division, Benicia;*

MY DEAR GENERAL:—I was *surprised beyond measure* to hear yesterday from Col. Rowe, who brought me a copy of Governor Johnson's letter to you, of June 4th, that you expressed a determination not to risk the issuance of arms to the Militia of this State, under the present aspect of things, after your assent to the Governor's request in my presence to issue such arms as would be required in the present emergency. I cannot think that Col. Rowe could have got the exact meaning of your reply. \* \* \* \*

Your friend and servant,

W. T. SHERMAN,  
Major-General California Militia.

When I wrote the above letter I did not suppose General Wool denied his promise to you. \* \* \*

I expected an answer on Saturday morning; It did not come—but in the course of the morning I received a copy of Gen. Wool's letter to you of June 5th. That day I received your dispatch to meet you again at Benicia. Reaching that place before you, I went to Gen. Wool and heard he had replied to my letter too late for the Stockton boat the night before, and then as I was present he gave me verbally to understand that his reply to my letter was substantially the same as his to you.

\* \* \* All of which is respectfully submitted.

Your obedient servant,

W. T. SHERMAN.

SACRAMENTO, October 9th, 1856.

J. NEELY JOHNSON,  
*Governor of California:*

DEAR SIR:—Upon my return yesterday, after a short absence from the city, I found your letter of the 19th ult., requesting me to state my recollection of the verbal reply made to me by Gen. Wool to the communication handed to him by myself from you on the evening of June 4th last; also the substance of a con-

versation had between yourself and Gen. Wool on the evening of the 7th day of the same month, at which interview I was present. In reply to the first portion of your letter, permit me to state that the answer made to me by General Wool, was to this effect, "That he could not let the State authorities have any arms or ammunition," giving as a reason, that, "men in San Francisco could not be trusted or relied upon," and, that "it was not safe to place arms in their hands, as they might be turned against the authorities themselves."

The conversation to which I allude, had on the evening of the 7th June, at Gen. Wool's quarters at Benicia, which was quite brief, was confined principally to the issuance of arms and ammunition for the purpose of quelling the then existing insurrection in the City and County of San Francisco, and in reply to a remark of yours, according to recollection, these words, "I much regret General, that you are unwilling to fulfil the promise you made me last week, to furnish the arms and ammunition," Gen. Wool replied, "When I made you the promise, I had but an imperfect recollection of the law applicable to such a case, as I had no occasion to examine it for some two years." During the difficulty with the French Consul at San Francisco, the Mayor of the City called on me for assistance, and on examination of the law I found I had no authority to render the assistance he required, and when I received your requisition I examined the matter and found I had no discretion in the premises, but the authority was vested solely in the President of the United States

To the best of my recollection, this is the substance of the conversation had at the interview referred to.

With respect I remain,

Yours truly,

E. A. ROWE,

Aid-de-Camp to Commander in Chief.

To J. NEELY JOHNSON, Governor of California.

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(H)

#### DEPUTATION OF F. FORMAN.

EXECUTIVE DEPARTMENT,

SACRAMENTO CITY, Cal., June 18th, 1856. }

SIR:—You are hereby directed and appointed to proceed to the city of Washington, and on behalf of the State of California to present an application for the aid of the United States Government with arms and ammunition, together with their military and naval forces to assist in the suppression of an existing insurrection in the city of San Francisco; also, to use such proper and legitimate measures as may be necessary to accomplish the objects of such mission.

You will be assisted in the purposes of your mission, by Judge R. A. Thompson, of San Francisco. On behalf of this State I propose that your legitimate expenses of the trip, whilst absent on this business, be paid, and will endeavor to have an allowance made for the purpose by the Legislature.

Very respectfully, your obedient servant,

J. NEELY JOHNSON.

To COL. F. FORMAN.

(I)

## DEPUTATION OF R. A. THOMPSON.

EXECUTIVE DEPARTMENT, }  
 SACRAMENTO CITY, Cal., June 18th, 1856. }

SIR:—You are hereby deputed on behalf of the State of California, to proceed by the most rapid means of conveyance to the city of Washington and make application to the President of the United States for the use and service of such arms and ammunition, together with the aid of the naval and military forces of the United States as may be required by the Executive of this State in the suppression of the existing insurrection in the city of San Francisco, and also to perform generally such duties as may be deemed proper and necessary in the prosecution of such mission.

In the performance of this duty you will be aided by Col F. Ferman, of this city, who is appointed by me to the performance of similar services. I will transmit by him the necessary papers relating to the subject. I regret to say, the arrangements which it was believed could be perfected whereby a sum of money could be placed at your disposal, have proved unsuccessful thus far, and reliance will have to be had on the faith and credit of the State for the repayment of your expenses; also, the value of the services to be rendered by you two gentlemen. I will write you more fully my views to-morrow.

Very respectfully, your obedient servant,

J. NEELY JOHNSON.

To HON. R. A. THOMPSON, San Francisco.

(J.)

EXECUTIVE DEPARTMENT, }  
 Sacramento, June 19, 1856. }

SIR:—In view of the existing condition of affairs in the city and county of San Francisco in this State, I am constrained to call upon the General Government, through the intervention of your Excellency, for aid and assistance in the enforcement of the laws of this State; and that you may the better understand the propriety of readily granting such request, I would beg leave to present a brief recital of events which have recently transpired, and rendered necessary such application.

As early as the 16th of May last, an organization, styling themselves the Vigilance Committee, was formed in that city, secret in its character, and to the uninitiated, its purposes unknown, except as their subsequent acts have developed themselves.

Although the presumption is, that the organization had its origin in the events connected with the shooting of Mr. James King by one Casey, on the 14th of the same month, apprehensions were entertained, from the incendiary appeals of the press, and the public excitement, that an attempt would be made to attack the jail where Casey was confined, and rescue him from the officers of the law, and deal out summary punishment to him;—in fact, an effort was made



so to do by a mob prior to this organization, but was resisted successfully. In the meantime, the Mayor had called on the military forces of the city, numbering some ten companies, for assistance,—the Sheriff did his utmost to obtain the aid of a posse capable of resisting an anticipated attack. It was found that the response in both cases was but limited—not more than fifty or sixty of the military could be depended on—several companies disbanded, joined the Vigilance Committee, forcibly placed in the possession of that organization arms and accoutrements (including the only two pieces of artillery belonging to the State) which had been issued to them as volunteer companies by the State, and not one in ten of those summoned by the Sheriff would obey his call.

It seemed as if a panic had seized upon the people, and the fear of this formidable organization impelled law-abiding and law-observing citizens generally to shrink from the responsibility resting on them as citizens owing obedience to the constitution and laws of the State.

On the 17th of the month, when it was manifest that neither a military or citizen force could be obtained to aid the Sheriff in defending the jail, an armed body, estimated at three or four thousand, marched up there, and demanded the delivery of two prisoners, Casey and Cora.

The Sheriff was powerless—the few men he had about him would have constituted no impediment in the way of these superior numbers, and resistance was useless. He was forced to give up the prisoners.

A few days later, this same body of men, from the window of their place of meeting, hung the two men referred to. Furthermore, they proceeded to arrest various individuals, search the houses of many of the best citizens on the most frivolous and groundless pretexts, establishing a system of espionage over the conversation and movements of respectable citizens, male and female, unknown to the laws or usages of a republican form of Government. At length, for one of the parties arrested by order of this self-constituted tribunal, on proper application being made to one of the Judges of our Supreme Court, he issued a writ of *habeas corpus*. The Sheriff was prevented by the armed resistance of this body of men from serving it, and a few days later the party from whom the writ was issued, was, in company with several other citizens, forcibly transported, by different modes of conveyance and to different places—report says, China, Australia, and the Sandwich Islands. In the meantime, one of the number they had arrested, and whilst in their custody, learning his sentence of banishment from the country, committed suicide in the cell where they had him confined.

On the third day of the present month, I issued a proclamation, (a copy of which I enclose in the form of a printed slip,) declaring the county of San Francisco in a state of insurrection. To General Wool I had, previously, in a personal interview, detailed the condition of affairs; of which matters, however, he was fully informed otherwise. At such interview, he unhesitatingly promised me, on the representations made him that we were almost wholly destitute of arms, and ammunition we had none, to furnish, *on my requisition*, when we wanted them, such arms and ammunition as we desired, within one or two days after the issuance of my proclamation, of which I duly notified him. I made a requisition on Gen. Wool for certain arms and ammunition, to be furnished Major Gen. W. T. Sherman, in command of the State troops at San Francisco.

To my great surprise he refused, alleging that he had no authority so to do in any case. That the necessities of the case were of such an urgent character as should induce a compliance with my request, I communicated with him again—(a copy of which letter, dated June 7, I herewith inclose.) To this, his reply was as before—a peremptory refusal to furnish any part of such requisition. In the course of this time, the Vigilance Committee continued to arm themselves with muskets, a large quantity of which they early procured—guns of various

caliber, ranging from 6 to 32-pounders, numbering near or about thirty pieces—erected fortifications in the central business portion of the city—proceeded with the trial and conviction of various persons—and now have in their custody several citizens, while others have been compelled to flee for protection and safety to remote parts of the State.

While all these warlike demonstrations are proceeding with, members of their organization, on the streets and public assemblages, and through the columns of the press, controlled and directed by them, the most violent harangues and inflammatory appeals are indulged, both against the General and State Governments; and at least one of their organs, comes out boldly and defiantly against existing authority, and calls upon the people to assemble and form a new Government.

The power and authority of the State is set at naught. These unlawful proceedings cannot be arrested, simply because we are destitute of arms and ammunition, whereby to equip a force capable of coping with them, which it is now said numbers six or seven thousand, with their sympathizers in large numbers outside.

At most, we have not muskets and rifles more than sufficient to arm six hundred men;—ordnance and ammunition we have none. I would therefore most urgently ask, that you will transmit orders to the officer who is, or may be, commanding the Pacific Division, to issue to the State authorities, on the requisition of the Executive, such arms and ammunition as may be needed for the purpose of suppressing the existing insurrection, or at least the number and quantity specified in the requisition I made on Gen. Wool, as appears in the postscript of the inclosed copy of a communication to him of June 7th.

I would also urge the importance of transmitting such orders to the officer commanding this Department, to render such assistance in arms and ammunition at any future period, as may be required by the Executive of the State for the purpose of enforcing obedience to the Constitution and Laws,—as it is feared the example afforded by the present organization may extend its influence to other localities,—in all probability to renew the present one even after disbanding their forces.

In conclusion, I would add, without the aid which is now sought at the hands of the General Government, the State authorities can no longer afford protection to its citizens, or punish the lawless acts this body of men have been guilty of; and with impunity they may, and doubtless will, proceed with their acts of aggression and disobedience towards the Government, as will ultimately result in its entire destruction.

I would beg leave to refer you to the Hon. R. Augustus Thompson, recently U. S. Land Commissioner for this State, and Col F. Forman, now the Postmaster of this city, who are deputed by me to lay this communication before your Excellency,—for a more detailed and minute relation of these affairs than can conveniently be embodied in a written communication.

Your earliest possible attention to this matter is extremely desirable.

Very respectfully,

Your obedient servant,

J. NEELY JOHNSON.

To His Excellency, FRANKLIN PIERCE, President of the United States.

(K)

## REPLY OF THE SECRETARY OF STATE OF THE UNITED STATES.

DEPARTMENT OF STATE, }  
 Washington, July 19th, 1856. }

To His Excellency,

J. NEELY JOHNSON,

*Governor of California :*

SIR :—The President has received your communication of the 19th of June, representing that an illegal association in the city of San Francisco, had overpowered by force, public authority there, and requesting the aid of the United States to enable you to maintain the Government and enforce the laws of the State.

The President has given to the subject the most careful consideration. He is deeply impressed by the anomalous condition and dangerous tendency of affairs in San Francisco, as set forth in your letter, and is prepared, whenever the exigency arises demanding and justifying his interposition, to render assistance to suppress insurrection against the Government of a State, and maintain the supremacy of the laws in the mode and to the extent of the authority vested in him by the Constitution and acts of Congress of the United States.

In the present case, serious doubts of his lawful power to proceed in the manner indicated by you, having occurred to the mind of the President, he referred the question to the Attorney General for advisement, and the conclusions submitted by that officer have, on full reflection, been decided by the President to constitute obstacles to the action now desired of the General Government. The report of the Attorney General is enclosed for your information.

The President will not allow himself to believe that the prevalence of rash counsels and lawless violence still continues in San Francisco. He confidently trusts that the citizens of California who have suffered themselves to be betrayed, by whatever inducements, into violations of the public peace of so dangerous a character, will already have resumed their obedience to the laws ; and that hereafter, instead of assuming to act independently of the constituted authority, they will, as good citizens, co-operate with it in the earnest endeavor to secure a prompt, impartial and vigorous administration of justice in the only way in which the life, property and rights of the people can be protected effectually—that is, by faithful conformity with the Constitution and laws of the State.

I am, sir, very respectfully,

Your obedient servant,

W. L. MARCY.

(L)

## OPINION OF THE U. S. ATTORNEY-GENERAL.

ATTORNEY-GENERAL'S OFFICE, }  
 July 19th, 1856. }

SIR:—I have the honor to lay before you herewith, conclusions of law on the questions presented by the application of the Governor of the State of California, concerning which you have required my official opinion.

Ss



It appears by the representation of the Governor, and by other documents communicated on the subject, that on the 16th of May last, there was formed, in the City of San Francisco, a voluntary association, composed of persons whose names are not disclosed, styling themselves a "Vigilance Committee," who proceeded to organize a numerous military force of all arms, to establish a strongly fortified post in the heart of the city, and by these means to overawe and supersede the city and county officers, and to usurp the local authorities of the State.

It further appears that the professed inducement of this combination and organization, was the commission, in the City of San Francisco, of an act of individual homicide; that the so-called Committee overpowered the Sheriff, abstracted from the prison by force the alleged murderer, and also another person under commitment on the charge of murder, and took the lives of said persons by hanging them publicly without law, in front of the head-quarters of the association in San Francisco.

It further appears that the Committee thereafter continued to assume and exercise a summary police-jurisdiction in the City and County of San Francisco,—making domiciliary visits,—arresting by force numerous individuals,—subjecting the same to imprisonment or deportation without law,—and, at the date of the Governor's representation, the 19th of June last, still holding the military possession of the city, with daily augmentation of armed force, and with no definite indication of any purpose to desist from the usurped exercise of the public authority of the State.

It further appears that most of the organized companies of militia in the city of San Francisco uphold the proceedings of the Committee, and yield obedience to its orders, in preference to, and in open disregard of, those of the constituted military authorities of the State.

It does not appear distinctly how far this outward submission of the inhabitants of San Francisco to the assumed authority of the Committee is attributable to approbation of its acts, and how far to want of preparation and means to withstand it. Nor is that material to the question of law involved; since, whatever may be the local opinion regarding the Committee, its organization and its acts do not the less constitute a lawless usurpation of the powers of the State.

Thus, it appears that, independently of the specific acts of violation of law perpetrated by the Committee, there is peculiar aggravation of illegality in its organization and action, by reason of the secrecy of its direction, its demonstrative ostentation of military force, the excessive disproportion of the means which it employs to its professed ends, and the duration of its violent power. If circumstances are supposable in which the exertion of illegal force for a moment may be justified, or, at least, extenuated, none are possible which suffice to warrant the permanent substitution of such force in the place of constitutional government.

It also requires to be stated, that, while the so called Vigilance Committee is acting in usurpation of public right, and assuming to punish, at its mere discretion, alleged malefactors, without lawful authority and in contempt of the established forms of justice, while its illegal power is rendered still more objectionable by reason of its anonymous, secret, and irresponsible constitution; and while the good which it may have done, or which it professes to aim to do, in the punishment of a few alleged criminal or disorderly persons, is altogether incommensurate with the extraordinary means adopted for its accomplishment; and while these considerations tend to subject the Committee to suspicion of unwavering ulterior purposes, still, there is no evidence in the documents referred, or in other authentic information, that, in what has thus occurred at San Francisco,



there has been committed or threatened any act of resistance or obstruction to the Constitution, laws, or official authority of the United States.

But the incidents in question exhibited a case of such persistent disturbance of public tranquility, as to have constrained the interposition of the Governor of the State, who, on the 8th June, issued his official proclamation, setting forth the existence of the unlawful combination, calling on its members to disband, and summoning to arms the militia of the State for the purpose of restoring public order, and of enforcing obedience to law in the City and County of San Francisco.

Upon these facts, the Governor of the State now represents to you, that insurrection exists there, and prefers the following requests:

1st. That you will transmit orders to the Officer of the United States, commanding the Pacific Division, to issue to the State, on the requisition of the Governor, such arms and ammunition as may be needed for the object of suppressing the said insurrection.

2nd. That you will transmit orders to the said Commanding Officer, to render such assistance in arms and ammunition, at any future time, as may be required by the Governor, for the purpose of enforcing obedience to the Constitution and Laws of the State.

Such, specifically, is the tenor of this application; and the question is of your Constitutional and legal power in the premises.

With reference to such a case of insurrection in a State against the Government thereof, the Constitution declares that Congress shall have power 'to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions.' The present is one of the forms of the second of the three specified emergencies; namely, insurrection against, not the Government of the United States, but that of a State.

I do not perceive in the Constitution any other provision of *specific* pertinency; but something will be said in the sequel regarding the relation of Congress and of the President, in such a case, to the military and naval forces of the United States.

As to the clause of the Constitution, which makes it the duty of the President, 'to take care that the laws be faithfully executed,'—that, it is apprehended refers primarily to the laws of the Union, and to those of a State or Territory, only in the contingency when the case of insurrection therein is presented according to the Constitution and to Acts of Congress.

The Congress of the United States has executed that clause of the Constitution, which empowers it 'to provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions;' and, also, its general power in the same relation over the Federal military and naval forces, by the enactment of two subsisting laws, the material parts of which are as follows:

The Act of February 28th, 1795, entitled, An Act to provide for calling forth the militia for the purposes, and in the words of the Constitution, enacts that, 'in case of an insurrection in any State against the Government thereof, it shall be lawful for the President of the United States, on application of the Legislature of such State, or of the Executive, when the Legislature cannot be convened, to call forth such number of the militia of any other State, or States, as may be applied for, as he may judge sufficient to suppress such insurrection.'

And, it further enacts, 'that whenever it may be necessary in the judgment of the President, to use the military force hereby directed to be called forth, the President shall forthwith, by proclamation, command such insurgents to disperse and retire peaceably to their respective abodes, within a limited time.' (U. S. Stat. at Large, vol. 1, p. 424.)

The Act of March 3, 1807, entitled an Act authorizing the employment of the land and naval forces of the United States in case of insurrections, provides :

That in all cases of insurrection or obstruction to the laws, either of the United States, or of any individual State or Territory, where it is lawful for the President of the United States to call forth the militia for the purpose of suppressing such insurrection, or of causing the laws to be duly executed, it shall be lawful for him to employ, for the same purposes, any part of the land or naval force of the United States as shall be judged necessary, having first observed all the prerequisites of the law in that respect. (U. S. Statutes at Large, vol 2, p. 443 ) These are the only subsisting provisions of statute material to the subject matter of inquiry.

It is observable, that the statute does not, by expression, empower the President to call forth the militia of the State in which the insurrection exists, but only upon the application of such State, to call forth the militia of some other State or States. It presumes, of course that when occasion arises the militia of the particular State will be brought into action by its own Executive and Legislative authority. *Luther v. Borden*, 7 Howard, p 45.

It is likewise observable that, in so far as the statute goes to determine the point, the President is only to be moved to action by the Legislature of the State in which the insurrection exists, or of the Executive of such State when the Legislature cannot be convened.

Now, the call here made on the President, in the name of the State of California, is not according to the conditions of the statute, for it is made by the Governor of the State, not by its Legislature, and made by him without any allegation that the Legislature could not be convened.

That he had lawful power to convene the Legislature cannot be doubted, for it is expressly conferred by the Constitution of the State, Art 5, sec. 9.

Moreover, the Governor of the State does not request the President to call forth the militia of some other State or States, in aid of his authority; nor does he in terms request you to employ for that purpose, the land or naval force of the United States. On the other hand, there is no room for question here as to legitimacy of government between two contending parties in the same State or Territory. If there were it would be for you to determine that question in the first instance, as the Supreme Court have decided in the case of the political controversy which some years ago agitated the State of Rhode Island. *Luther v. Borden*, *ubi supra* p. 43. But in the present case there is no pretext or claim whatever that the Vigilance Committee is the government of the State, which beyond all peradventure has its lawful representation in the person of the Governor.

And it is the function of the President of the United States, indubitably, to decide in his discretion what facts existing constitute the case of insurrection contemplated by the Constitution. *Martin v. Mott*, 12 Wheaton, 29, 31. *Luther v. Borden*, *ubi supra*, p 45.

In a word, the present case seems to be wholly exempt from difficulties of a political nature, and the only questions involved are of the duty and power of the President in view of the peculiarities before mentioned in the tenor of the application made by the Governor of California. Can the President call forth the militia of one State for the purpose of suppressing insurrection in another, or employ the land and naval forces of the United States for the same purpose, when he has sufficient knowledge of the fact of insurrection, but no request for his interposition has been made in due conformity with the conditions of the statute ?

And, supposing the emergency of insurrection to occur, and to be duly brought to his knowledge, can he furnish to the public authorities of the State in which the insurrection exists arms and munitions of war, distinct from, and not in the hands of officers and troops of the United States?

I feel reluctant to go beyond the actual case, in the undertaking to pronounce

rules of law applicable to the gravest and the most critical of all the emergencies possible to occur in the relations between the United States and the respective States of the Union. I am not willing to say that circumstances may not arise in which the President might furnish arms without furnishing men at the same time, under the authority of the Act of 1807, and on the principle that, as the whole includes all its parts, so the furnishing of arms alone may be comprehended in the power to employ all the land and naval force of the United States. I am not less unwilling to assume to foresee or conceive all the possible contingencies of such a public question, and to presume, by conjectural suppositions in anticipation of fact, to exhaust the legal conditions of the power of the General Government in the premises.

This, however, it seems safe to say, that the application of this high power of the President to cases of *doubtful* legal condition ought to be reserved for circumstances of the most exigent emergency, such as, for instance, a case of indisputable *bellum flagrans* in a given State, and in which all the constitutional powers of the State shall have been exerted in vain, to prevent or suppress domestic war, and in which, also, imminent or extreme public disaster can be averted only by such interposition of the Federal Government.

I do not perceive such circumstances of superlative exigency in the present case. There is obstruction of law in California, but not actual shock of arms between the insurgents and the State.

Besides, the whole constitutional power of the State in this case has not yet been exerted; for, in the space of time which the illegal incidents had already occupied, of one whole month, it does not appear that the Governor took any steps to convene the Legislature of the State, although that remedy might have been adopted, and have had its effectual application to the evil, long before any such remedy could be derived from the President of the United States.

The legal considerations herein submitted apply more particularly to the first of the two requests made by the Governor, namely, that for the supply of arms and munitions of war to the State in the specific present emergency. The same objections, with others of a more serious nature which it is unnecessary to discuss in detail, apply to the second request, that of orders for the supply of arms and ammunition "at any future time," on the call of the Governor. It is obvious that the President of the United States must himself determine the condition of actual or apprehended insurrection in a State, demanding and justifying the interposition of the military force of the United States.

In regard to the supply of arms to the State, it is taken for granted by me, that, in the ordinary course of its administrative action, the War Department had delivered to the State the distributive quantity of arms, to which it was entitled under standing provisions of Acts of Congress.

In conclusion, then, permit me to observe, that, without presuming to say that there may not be, in the present case, some act of moral authority competent for you, in your discretion, to perform, still, in my opinion, the circumstances do not afford sufficient legal justification for acceding to the actual requests of the Governor of the State of California.

I am, with the highest consideration,  
(Signed,) C. CUSHING.



(M)

## REPORT OF COMMISSIONERS THOMPSON AND FORMAN.

To His Excellency,

J. NEELY JOHNSON,

Governor of California:

The undersigned, deputed by virtue of your letter of appointment of the 19th June last, "on behalf of the State of California, to proceed by the most rapid means to the City of Washington, and make application to the President of the United States for the use and services of such arms and ammunition, together with the aid of the naval and military forces of the United States as may be required by the Executive of the State in the suppression of the (then) existing-insurrection in the City of San Francisco, have the honor to report. That in pursuance of your instructions, they sailed from San Francisco in the steamer of the 20th June, and proceeded with all practicable dispatch to the city of Washington where they arrived about the 15th of the following month of July.

They lost no time in waiting on the President, and laying before him your communication setting forth the unhappy and alarming state of affairs existing in the city of San Francisco, and soliciting the prompt interposition of the Federal Government, for the purpose of suppressing the insurrection and maintaining the State authorities in the exercise of their legitimate functions. They did not fail, at the same time, and in several subsequent interviews with the President, to urge upon that functionary, from facts in their own knowledge, the alarming aspect which the insurrectionary movements in that city had assumed, and the danger which was to be apprehended, in addition to the total abrogation of the local authorities, of the entire overthrow of the State Government, and the ultimate extinction of the supremacy of the Federal Government on the Pacific coast. These considerations did not, in the opinion of the undersigned, received from the Federal Executive the attention which their importance demanded. They have reason to believe that the President had been induced by the misrepresentations of parties actually engaged in the insurrection, or those who sympathized with them, to regard the matter in a much less serious light than was warranted by the true state of the case, and that the treasonable organization would, by a voluntary and speedy dissolution, remove all grounds of apprehension on that score. He, however, promptly, on the receipt of your communication, referred it to the Attorney General, for his opinion on the legal and constitutional questions which it presented. The result of that reference you have already received in the communication of the Secretary of State, under date of July 19th, transmitting the opinion of the Attorney General, and the decision of the President on the subject.

These documents would have been forwarded by the steamer of the 27th July; but, at the instance of the undersigned, they were withheld until after the arrival of the mail, which left San Francisco on the 5th July. That arrival bringing the intelligence that the insurgents had not dispersed, and returned to their allegiance to the laws, as it was represented they were about to do; but, on the contrary, that they had been guilty of other and more outrageous acts of violence and bloodshed, fully justified the view which the undersigned had taken of the subject, and went very far to disabuse the minds of the President and his Cabinet of the erroneous impressions they had received in relation to it. While, therefore, this new aspect of the question could not change the legal conclusions to which the President had arrived, as set out in this communication above re-



ferred to, it nevertheless led to the issuing of stringent orders to the naval and military commanders on the Pacific coast, which would have rendered effectual aid to the State Executive in its efforts to suppress the insurrection, had not the insurgents, by a timely disbandment and dispersion, superseded the necessity for any action under them.

In conclusion, the undersigned would remark, that although they may have failed in accomplishing immediately the purpose of their mission, in consequence of the insufficiency of the law enacted in the infancy of the Republic to meet a contingency which its framers could never have anticipated, we have the satisfaction of believing that it contributed, in no unimportant degree, to the restoration of order in the infected district.

All of which is respectfully submitted.

R. AUG. THOMPSON,  
F. FORMAN.

(N)

# LETTER OF JUDGE OF SAN FRANCISCO COUNTY.

COUNTY COURT AT CHAMBERS,  
San Francisco, Nov. 3d, 1856. }

To His Excellency,

J. NEELY JOHNSON,  
*Governor of California :*

SIR :—At the request of Captain W. T. Sherman, I am happy to state to your Excellency that, understanding the State arms heretofore in the possession of the Vigilance Committee of San Francisco will this day be delivered up to the proper authorities. In that event it is my opinion that the civil power and authority of the city and county of San Francisco is amply sufficient to enable the officers of the law to execute and enforce any civil or criminal process which may be lawfully issued.

I am, respectfully,

Your obedient servant,

T. W. FREELON,  
County Judge.

(O)

# WITHDRAWAL OF GOVERNOR'S PROCLAMATION.

EXECUTIVE DEPARTMENT,  
Sacramento, Cal., Nov. 3d, 1856. }

WHEREAS, on the 3d day of June, 1856, satisfactory information having been received by me that combinations for the purpose of resisting the execution of legal process by force, existed in the county of San Francisco, in this State, and

that an unlawful organization styling themselves the Vigilance Committee, had resisted by force the execution of criminal process, and the power of said county had been exhausted, and was not sufficient to enable the Sheriff of said county to execute such process; I did, in the performance of my duty and the exercise of the power and authority vested in me by the constitution and laws, as the Governor of the State of California, on the aforesaid day, issue a proclamation declaring said county of San Francisco in a state of insurrection; and whereas, I have this day received satisfactory information that the causes which required the issuance of the same, no longer exist; therefore, I do revoke and withdraw said proclamation.

J. NEELY JOHNSON.

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(P)

### INSTRUCTIONS TO QUARTERMASTER GENERAL.

EXECUTIVE DEPARTMENT,  
Sacramento, Cal., Oct. 2d, 1856. }

SIR:—In the performance of your duties as acting paymaster, and the issuance of certificates to such persons as have rendered military service to this State pending the insurrection in San Francisco, you will be governed by the provisions of "an Act concerning the organization of the militia, approved April 25th, 1855;" also, the laws and regulations of the United States, so far as the same apply and are recognized in the Act referred to. You are particularly referred to section 22, of said Act. Under its provisions you will perceive that only such persons as are called into service, "requiring *continued* service for the space of more than one week," are entitled to pay from the State. The only rule that can be established is, to issue certificates to those who rendered *continued* service to the State more than one week. Such is the obvious intent and purpose of the law; therefore, the mere mustering into service and occasionally drilling, cannot of itself constitute a claim for compensation. You, of course, must exercise your own proper judgment and discrimination in these matters so as not to burthen the State with claims that are not fully in accordance with the construction thus given to the law. That is as far as I am willing to recognize claims for military service, as the law now exists.

Very respectfully,

Your obedient servant,

J. NEELY JOHNSON.

To WM. C. KIBBE, Esq.,

Adjutant Quartermaster General,

and Acting Paymaster General,

California Militia.

## LETTER IN RELATION TO SWAMP LANDS.

GENERAL LAND OFFICE,  
May 2nd, 1855.

To His Excellency, J. NEELY JOHNSON,

Governor of California, Sacramento, Cal.

SIR :—I have the honor to inclose herewith a copy of a letter recently received from Charles S. Fairfax, Esq., Register of the Land Office at Marysville, California, advising me of the course of action now being pursued by county agents in portions of the State of California, relative to "Swamp and Overflowed Lands."

This letter contains the first intimation received at this office, that any action was being taken by the State authorities in pursuance of the Act of 28th September, 1850, and I would respectfully suggest to your Excellency that the interests of the State will be best subserved, and private rights be better protected, by some concert of action between the State authorities, the Surveyor-General, and this office, in the matter.

To promote this harmony of action, I would suggest, that, before permitting the sale or other entry of any lands as Swamp, the Government should be advised of the selections, in order that such information may be had as will prevent innocent parties being allowed to acquire rights under the General Government, which being opposed to the rights of those claiming under the State, will lead to endless and vexatious litigation.

This suggestion is based upon experience in the adjustment of the Swamp and Overflowed Land question, in other States, and is deserving of your most serious consideration.

It is highly necessary that I should thus take advantage of the earliest opportunity to state what the Government understands as constituting Swamp and Overflowed Lands," within the intent and meaning of the Act of 28th September, 1850, and on this point I would remark, that the law itself specifies it to be only "those Swamp and Overflowed Lands rendered thereby unfit for cultivation."

The question of cultivation has been carefully examined, and we have long since decided that, to place the land without the purview of the Act, it is not necessary for the cultivation to be in grain.

It was not the design of Congress to grant to the States those rich prairie meadows where crops of grass may be cultivated and harvested,—hay being regarded as much a staple production as wheat or corn.

It is true there is difficulty in its cultivation, and that it may be successfully raised and harvested where grain would perish; yet, the fact that any land may be cultivated in any staple production, removes it from the operation of the law, which was designed to grant only such lands as, in their natural condition, were "unfit for cultivation by reason of Swamp or Overflow,—and which, to be made valuable, would need the artificial aid of drains or embankments."

I should be happy to communicate freely with you upon this subject, and to establish some basis for the adjustment of the law, by means of which we may avoid the difficulties that have been encountered elsewhere; and I should esteem

it a favor to be furnished with copies of any laws passed by the local Legislature on the subject.

I am, sir, with great respect,

Your obedient servant,

THOS. A. HENDRICKS.

Commissioner.

(R)

STATE OF CALIFORNIA, TREASURY DEPARTMENT, }  
Sacramento, Jan. 3d, 1857. }

To His Excellency,

J. NEELY JOHNSON,

SIR:—In compliance with your request, made on the 2d inst., relative to the payment of the July interest, as also that of January, I have the honor to represent, that on or about the 12th day of April, 1856, I placed in the hands of Messrs. Palmer, Cook & Co., of San Francisco, sufficient funds to meet the payment of the interest due in that month.

I regret to be obliged to inform you that Messrs. Palmer, Cook & Co. having failed to meet the payment of interest, and deeming it my duty to protect the interest of the State in conformity with the laws, and own obligations, consequently assumed the responsibility of placing sufficient funds in the hands of Messrs. Wells, Fargo & Co., which moneys, I am creditably informed has been received by their house in New York, and the interest duly paid. I would also represent that Palmer, Cook & Co. have not refunded the amount of moneys placed in their hands, due this department, and that in consequence thereof have commenced suit against their bondsmen, which is being prosecuted with all due promptness. The bonds being sufficient and ample, I am satisfied that the amount due the State will be promptly paid over without any loss.

I would also state in relation to your enquiry of the payment of the interest due on the 1st of the present month, that I remitted to New York, through the house of Wells, Fargo & Co., sufficient funds to meet that payment, on the 5th of November last, taking their bond, which is deposited in this office.

I am, very respectfully,

Your obedient servant,

HENRY BATES,

State Treasurer.

After being read some time, Mr. Fiske moved to suspend the further reading of the Message, and that 1000 copies be ordered printed.

A division being called for, Mr. Fiske withdrew that portion referring to printing.

Motion carried.



Mr. McCallum gave notice that on to-morrow, or at an early day thereafter, he would introduce a Bill to amend "An Act concerning Crimes and Punishments."

On motion of Mr. Mandeville the Senate adjourned.

## IN SENATE.

THURSDAY, January 8, 1857.

Senate met pursuant to adjournment.

Prayer by the Rev. Mr. Benton.

Roll called. Quorum present.

The following members were absent at roll call:

Messrs. Bynum, Coffroth, Crandall, De La Guerra, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Merritt, Norman, Taliaferro, Melony, Cosby.

The Journal of yesterday read, amended and approved.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate, that the Assembly on yesterday, concurred, in Senate resolution, "Fixing the time for electing United State Senators."

The Assembly also adopted the following resolution:

*Resolved*, By the Assembly, (the Senate concurring,) that a committee of three be appointed to determine in conjunction with a like committee on the part of the Senate, upon the number of copies of the Governor's message, and accompanying documents to be printed in English, Spanish, German and French, and have appointed as committee on the part of the House, Messrs. Brent, Moore, and Watkins.

W. CAMPBELL,  
Clerk of Assembly.

The President announced the following Standing Committees of the Senate:

## CLAIMS.

Messrs. Ashley, Shaw, Burnett, Fiske, and Bynum.

## FINANCE.

Messrs. Josiah Johnson, Coffroth, Dosh, De La Guerra, and Mesick.

## JUDICIARY.

Messrs. Tilton, Ashley, McCallum, Merritt, Chase, Cook, and Goodwin.

## ELECTIONS.

Messrs. Burnett, Sullivan, Carpenter, Mesick, and Dosh.

## PUBLIC LANDS.

Messrs. Coffroth, Wilson, Goodwin, Soule, and Ferguson of Sierra.

## COMMERCE AND NAVIGATION.

Messrs. Shaw, Carpenter, Waite, Crandall, and Soule.

## FEDERAL RELATIONS.

Messrs. Merritt, Mesick, Johnson of El Dorado, Coffroth, and McGee.

## STATE HOSPITAL.

Messrs. Taliaferro, Fiske, Mandeville, Waite, and Coffroth.

## MINES AND MINING INTERESTS.

Messrs. Norman, Ferguson of Sierra, Dosh, Carpenter, Mandeville, Merritt, and Walkup.

## STATE PRISON.

Messrs. Westmoreland, McCallum, Burnett, Waite, and Coffroth.

## EDUCATION.

Messrs. Mesick, Chase, Sullivan, Bell, and Melony.

## STATE LIBRARY.

Messrs. McGee, Johnson of El Dorado, and Goodwin.

## MILEAGE.

Messrs. Wilson, Cosby, and Chase.

## COUNTIES AND COUNTY BOUNDARIES.

Messrs. Bynum, Johnson of El Dorado, Walkup, Tallaferra, Ferguson of Sierra, Dosh, and Coffroth.

## CORPORATIONS.

Messrs. Waite, Coffroth, Shaw, Mesick, and Ferguson of Sacramento.

## AGRICULTURE.

Messrs. De La Guerra, Ashley, Bynum, Tallaferra, and Melony.

## PUBLIC PRINTING.

Messrs. Ferguson of Sacramento, Barnett, Westmoreland, Waite, and Ashley.

## ROADS AND HIGHWAYS.

Messrs. Walkup, Wilson, and McGee.

## CONTINGENT EXPENSES OF THE SENATE.

Messrs. McCallum, Ashley, Mandeville, Ferguson of Sacramento, and Carpenter.

## MILITARY AFFAIRS.

Messrs. Dosh, Merritt, Coffroth, Melony, and Barnett.

## PUBLIC EXPENDITURES.

Messrs. Coffroth, Ashley, McGee, Shaw, and Waite.

## PUBLIC MORALS.

Messrs. Bell, Soule, Fiske, Burnett, and McCallum.

## ENROLLED BILLS.

Messrs. Crandall, Carpenter, Chase, Mandeville, Norman, and Ashley.

## ENGROSSED BILLS.

Messrs. Melony, Tilford, Goodwin, Sullivan, McCallum, and Cosby.

## INTERNAL IMPROVEMENTS.

Messrs. Tiske, Mesick, Ferguson of Sierra, Crandall, and Melony.

The President announced the following Committee on the part of the Senate, to act with a like Committee of the House, to determine the number of copies of the Governor's Message and accompanying documents, to be printed in English, Spanish, German and French: Messrs. De La Guerra, Wilson and Ashley.

According to previous notice, Mr. Shaw introduced the following:

An Act, recommending to the electors to vote for or against a Convention to revise and change the Constitution of this State.

Read first and second time.

Mr. Shaw moved its reference to a Special Committee.

Mr. Coffroth moved its reference to the Committee on the Judiciary.

Pending which, the following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly have, this day, concurred in Senate resolution fixing the time for holding Joint Convention for counting votes on proposed amendment to the Constitution.

W. CAMPBELL,  
Clerk of Assembly.

Mr. Tilford moved its reference to the Committee of the Whole, and that it be made the special order of the day for Thursday, the 15th inst.

Mr. Coffroth suggested it be made the order of the day for the 25th.

On motion of Mr. Shaw, the question was taken, on the 15th.

Carried.

So the bill was made the special order of the day for Thursday, the 15th inst., at 12 o'clock M.

In accordance with previous notice, Mr. Dosh introduced a bill for "an Act to fix the time for holding the terms of the District Court of the 9th Judicial District of this State."

Read first and second time, and referred to the Judiciary Committee.



Mr. Bell gave notice that at an early day he would introduce a bill for the purpose of amending an Act entitled "an Act to regulate the interest of money," passed March 13th, 1850.

Mr. Ashley, Chairman of the Senate Committee on Joint Rules, made the following report:

*To the Senate:*

The Committee of the Senate, and of the Assembly, upon Joint Rules, concur in recommending the adoption of the rules herewith appended.

D. R. ASHLEY,  
Chairman of Senate Committee.

W. J. GRAVES,  
Chairman of Assembly Committee.

## JOINT RULES AND ORDERS OF THE SENATE AND ASSEMBLY.

### I.

In every case of an amendment of a bill agreed to in one House, and dissented to in the other, if either House shall request a conference, and appoint a committee to confer, such committee shall, at a convenient hour to be agreed on by their Chairman, meet in their conference chamber and state to each, verbally or in writing, as either shall choose, the reasons of their respective Houses for and against the amendment, and confer freely thereon.

### II.

When a message shall be sent from either House, it shall be announced at the door by the Doorkeeper, and shall be respectfully communicated to the Chair by the person by whom it may be sent.

### III.

Messages shall be sent by the Secretary, Clerk, or by such persons as a sense of propriety in each House may determine to be proper.

### IV.

While bills are on their passage between the two Houses, they shall be on paper and under the signature of the Secretary or Clerk of each House respectively.

### V.

After a bill shall have passed both Houses, it shall be duly enrolled by the Clerk of the Assembly, or the Secretary of the Senate, as the bill may have

originated in the one or the other House before it shall be presented to the Governor of the State.

#### VI.

When bills are enrolled they shall be examined daily by the Enrolling Committees of the Senate and the Assembly, appointed as Standing Committees for that purpose, who shall carefully compare the enrollment with the engrossed bill as passed in the two Houses, and correcting any errors that may be discovered in the enrolled bills, make their report, forthwith to their respective Houses.

#### VII.

After examination and report, each bill shall be signed in the respective Houses, first by the Speaker of the Assembly, then by the President of the Senate.

#### VIII.

After a bill shall have thus been signed in each House, it shall be presented by the said Committee to the Governor of the State, for his approval. (It being first indorsed on the back of the bill, certifying in which House the same originated which indorsement shall be signed by the Secretary or Clerk, as the case may be, of the House in which the same originated,) and shall be entered on the Journals of each House. The said Committee shall report the day of presentation to the Governor, which time shall also be carefully entered on the Journals of each House.

#### IX.

All orders, resolutions and votes, which are to be presented to the Governor of the State for his approbation, shall also, in the same manner, be previously enrolled, examined and signed, and shall be presented in the same manner, and by the same committee, as provided in the case of bills.

#### X.

When the Senate and Assembly shall judge it proper to make a joint address to the Governor, it shall be presented to him in his Audience Chamber, by the President of the Senate, in the presence of the Speaker and both Houses.

#### XI.

When a Bill or Resolution which shall have passed in one House is rejected by the other, notice thereon shall be given to the House in which the same shall have passed.

#### XII.

When a Bill or Resolution which has been passed in one House shall be rejected in the other, it shall not be brought in during the same session without a notice of five days, and leave of two-thirds of that House in which it shall be renewed.

## XIII.

Each House shall transmit to the other all papers on which any Bill or Resolution shall be founded.

## XIV.

After each House shall have once adhered to their disagreement, a Bill or Resolution shall be lost.

## XV.

No Bill or Resolution that shall have passed the Assembly and Senate shall be presented to the Governor for his approval on the last day of the session.

## XVI.

No appropriations of money, for any purpose whatever, shall be made, except by Bill.

## XVII.

Each House may order the printing of bills introduced, and reports of its own committees, but no other printing shall be ordered except by a concurrent resolution passed by both Houses.

## XVIII.

There shall be a Joint Standing Committee of three from each House who shall examine all matter proposed to be printed by concurrent order, and shall report what part of such matter it is needful to print.

## XIX.

No spirituous liquors shall be offered for sale or exhibited within the Capitol or public grounds adjacent thereto.

Rules and Report adopted.

Mr. Fiske introduced the following resolution:

*Resolved*, That the Controller of State be, and he is hereby authorized to draw his warrant on the State Treasurer in favor of W. Bausman, and John S. Lee, for one week's services each, as Secretary and Assistant Secretary of the Senate, *ad interim*, payable out of the fund for the pay of officers and clerks of the Senate.

Mr. Shaw moved to strike out "one week," and insert "two days."

Mr. Mandeville moved its reference to the Committee on Claims.

Carried.

Mr. Wilson gave notice, that at an early day he would introduce a Bill, entitled, An Act to authorize the Construction of Certain Wharves upon the Straits of Carquenas, and certain Turnpike Roads from the same.

Mr. Tilford introduced the following resolution:

*Resolved*, That in honor of this, the 42d Anniversary of the Battle of New Orleans, and as a mark of our respect and veneration for the memory of Andrew Jackson, we do now adjourn.

Upon which, the ayes and noes were demanded by Messrs Merritt, Waite, and Fiske, and resulted as follows:

#### AYES.

Messrs. Ashley, Burnett, Bynum, Bell, Coffroth, Crandall, Carpenter, Chase, De La Guerra, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Goodwin, Johnson of El Dorado, Mandeville, McCallum, Melony, Merritt, Mesick, Norman, Shaw, Soule, Sullivan, Tilford, Taliaferro, Westmoreland, Wilson, Walkup—28.

#### NOES.

Messrs. Fiske, Johnson of Sacramento, Waite—3.

So the Senate adjourned.

### IN SENATE.

FRIDAY, January 9th, 1857.

Senate met pursuant to adjournment.

The President in the chair.

Prayer by the Rev. Mr. Benton.

The roll being called, the following members were found absent:

Messrs. Bynum, Coffroth, Cosby, De La Guerra, Chase, Ferguson of Sacramento, Fiske, McGee, Merritt, Mesick, Norman, Tilford, Taliaferro and Wilson.



A quorum being present, the Journals of yesterday were read and approved.

By leave first obtained, Mr. Shaw introduced the following bill:

An Act to fix the terms of the District Court in the county of San Mateo.

Read first time, rule suspended, bill read a second time, and referred to the San Francisco Delegation.

Mr. Mandeville gave notice, that at an early day he would introduce a bill for an Act entitled an Act for the relief of James Kerrick.

Mr. McCallum gave notice that at an early day he will introduce a bill to amend an Act concerning the incorporation of towns and cities.

On motion of Mr. Dosh, the bill which was yesterday referred to the Judiciary Committee, entitled, "An Act to fix the terms of the District Court for the 9th Judicial District of the State," was withdrawn from said committee.

The bill was read and ordered to be engrossed.

The rule requiring bills to be read on three several days was suspended, the bill read a third time and passed.

The Special Committee to whom was referred an Act, entitled, "An Act to fix the terms of the District Court of San Mateo County," made the following report, which was adopted:

*Mr. President :*

The Special Committee to whom was referred the Act, entitled, "An Act to fix the terms of the District Court in the county of San Mateo," beg leave to report that they have examined the same and recommend its passage.

WM. J. SHAW, Chairman.

SAM'L SOULE,

E. S. SULLIVAN.

Rule suspended, bill read a third time, and passed.

Mr. Fiske offered the following resolution.

*Resolved,* That the Sergeant-at-Arms, be authorized to make an arrangement with the Postmaster of this city, for the transmission of papers and documents, and make report of his action without delay.

Mr. Shaw offered the following amendment:

Strike out the words, "make an arrangement," and insert "confer."

Amendment accepted, and the resolution as amended was adopted.

Mr. Ashley offered the following resolution:

*Resolved*, That that portion of the Governor's message relative to Indian Affairs, be referred to the Committee on Federal Relations.

Adopted.

Mr. Taliaferro offered the following resolution:

*Resolved*, That the Controller is hereby required to draw his warrant on the Treasurer, in favor of Wm. A. Cornwall for the sum of eight hundred and thirty-eight dollars, payable out of the first moneys appropriated for the contingent fund of the Senate.

On motion of Mr. Mandeville the resolution was referred to the Committee on Claims.

On motion of Mr. Mandeville, the Secretary was directed to inform the Assembly that the Senate was ready to go into Joint Convention to open and publish in the presence of both Houses, the returns of the vote of the people upon the proposed amendments to the Constitution, which amendments was submitted to their vote by an Act approved April 19th, 1856.

Mr. Bell offered the following resolution:

*Resolved*, That so much of the Governor's message as relates to the Civil Fund be referred to the Committee on Finance.

Adopted.

Mr. Bell offered the following resolution:

*Resolved*, That so much of the Governor's message as refers to the Registry Law, be referred to the Committee on Elections, with instructions to report a bill applicable to the Cities of this State.

Mr. Shaw offered the following amendment, which was accepted by Mr. Bell:

Strike out all after the word "elections."

The resolution as amended, was adopted.

Mr. Carpenter gave notice that at an early day he would introduce a bill for a law, constituting Constables within their respective townships, Collectors of Foreign Miners' Tax in this State.

Mr. Merritt offered the following resolution:

*Resolved*, By the Senate, the Assembly concurring, that the Senate and Assembly meet in Joint Convention on Tuesday, the 13th inst., at 12 o'clock M., for the purpose of electing a Physician to the Insane Asylum at Stockton.

Adopted.

On motion of Mr. Fiske, the vote just taken on the adoption of the resolution was reconsidered.

On motion of Mr. Merritt the resolution was laid upon the table.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly are now ready to meet them in Joint Convention.

W. CAMPBELL,  
Clerk of Assembly.

January 9th, 1857.

The hour having arrived for the Joint Convention of the two Houses, relative to the vote of the people on the Act passed April 19th, 1856, the Senate proceeded to the Assembly Chamber.

### JOINT CONVENTION.

The roll of members was then called, and the following were absent:

Senators—Messrs. Cosby, McGee and Tilford.

Assemblymen—Messrs. Barrett, Catlin, Clark, Covarrubias, Estell, Hall, Hunt, Hunter, Kendrick, Showalter, Shuler and Varney.

The President of the Senate appointed Mr. Mandeville on the part of the Senate, and the Speaker appointed Mr. Moore on the part of the House, as Tellers.

Mr. Merritt of the Senate offered the following resolution:

*Resolved*, That the Secretary of the Senate be instructed to request the Secretary of State to transmit to this Convention the original returns of the votes made to his office for and against the proposed amendments to the Constitution.

Adopted.

The Secretary of State transmitted the returns from the several Districts to the Convention.

On motion of Mr. Ashley of the Senate, the Secretary of the Senate proceeded to open the returns, and handed them to the Speaker, who announced them with the following result:

	For the Proposed Amendment.	Against.
Alameda.....	741	52
Amador.....	670	71
Butte.....	1,251	32
Calaveras.....	591	10
Colusi.....	167	1
Contra Costa.....	336	7
El Dorado.....	262	7
Fresno.....	13	1
Humboldt.....	274	34
Los Angeles.....	121	1
Marin.....	41	0
Mariposa.....	237	60
Merced.....	40	2
Monterey.....	177	0
Napa.....	227	8
Nevada.....	1,740	292
Placer.....	2,462	795
Plumas.....	104	2
Sacramento.....	5,011	150
San Bernardino, (no returns).....	0	0
San Diego.....	38	8
San Joaquin.....	1,305	13
San Francisco.....	8,794	34
Santa Clara.....	917	34
Santa Cruz.....	409	13
Shasta.....	362	11
Sierra.....	980	24
Siskiyou.....	381	429
Solano.....	471	375
Sonoma and Mendocino.....	169	0
Stanislaus.....	347	10
Sutter.....	174	43
Tehama.....	132	2
Trinity.....	314	13
Tulare.....	32	1
Tuolumne.....	1,335	111
Yolo.....	384	14
Yuba.....	1,647	291
	<hr/> 32,656	<hr/> 2,951
Whole number of votes cast.....		35,607
Majority in favor of amendment.....		29,605

The Tellers having counted the whole, announced the result as follows:

*Mr. President:*

We have counted the votes for and against the Constitutional Amendments, and find that we agree in the result. We find the whole number of votes cast to be thirty-five thousand six hundred and seven, (35,607,) of which thirty-two thousand six



hundred and fifty six (32,656) were cast for the proposed amendments, and two thousand nine hundred and fifty one (2,951) against the proposed amendments.

J. W. MANDEVILLE,  
Teller of Senate.

PHIL. MOORE,  
Teller of Assembly.

Whereupon the Speaker announced from the chair the adoption of the Amendments to the Constitution.

The Convention was then adjourned *sine die*, and the Senate withdrew to their Chambers.

#### IN SENATE.

On motion of Mr. Mandeville, the Senate adjourned.

#### IN SENATE.

SATURDAY, January 10th, 1857.

The Senate met pursuant to adjournment.

The President *pro tem.* in the chair.

Prayer by the Rev. Mr. Benton.

The roll being called, the following members were found absent:

Messrs. Burnett, Cosby, De La Guerra, Ferguson of Sacramento, McGee, Merritt, Norman, Tilford and Waite.

A quorum being present, the Journals were read approved.

On motion of Mr. Coffroth, Mr. Cosby was granted leave of absence from the commencement of the session.

Mr. Crandall gave notice that at an early day he would introduce a bill for an Act to divide the Nineteenth Senatorial District.

Mr. Walkup gave notice that at an early day he would introduce a bill fixing the times of holding the terms of the District Court in the Eleventh Judicial District.

On motion of Mr. Ashley, the Senate took a recess until half-past twelve o'clock.

At half-past twelve o'clock the Senate re-assembled.

President in the chair.

Mr. Coffroth offered the following resolution:

*Resolved*, That the Secretary of the Senate be, and he is hereby authorized, to order such printing done, as he may deem necessary, in the discharge of his duties as Secretary.

Mr. Shaw moved to strike out all after the word "order," and insert the printing of rolls for the Senate and labels for his desk,

Which was accepted by Mr. Coffroth, and the resolution as amended, adopted.

Mr. McCallum introduced the following bill:

A bill for an Act for the better Protection of Mining Interests.

Read first time, rule suspended, bill read a second time and referred to Judiciary Committee.

The following report was received from the Sergeant-at-Arms.

OFFICE SERGEANT-AT-ARMS OF SENATE, }  
Sacramento, January 10th, 1857. }

Hon. R. M. ANDERSON,

President of Senate :

SIR:—In accordance with the resolution passed by the Senate authorizing me to confer with the Postmaster of this city in reference to the cost of the postage of the Senate, during its session, I beg leave to submit the enclosed communication from the Postmaster.

Yours respectfully,

ALEX. HUNTER,

Sergeant-at-Arms of Senate.

POST OFFICE, SACRAMENTO CITY, }  
January 9th, 1857. }

ALEX. HUNTER, Esq.,

Sergeant-at-Arms of Senate:

SIR:—I have already communicated with a committee of the House, upon the subject of postages for the two Houses, the substance of which communication is as follows:

The rates charged, or to be charged, to be the same as fixed by the Acts of Congress; if taken in any other than the legal currency of the United States, such discount to be added thereto. I have, however, taken the liberty to suggest that the sum of \$3,000 in cash be set apart for the two Houses, for the payment of postages, which in my estimation will be sufficient to cover the expenses of the two Houses for the session.

Very respectfully,

Your obedient servant,

F. FORMAN, P. M.

On motion of Mr. Merritt, the report was laid on the table.

On motion of Mr. Fiske, the report was taken from the table and referred to the Committee on Contingent Expenses, with instructions to report upon the same on Monday next.

Mr. Waite offered the following resolution:

*Resolved*, That the Committee on Mileage be instructed to report on Monday next the number of miles for which each Senator is entitled to receive pay in traveling to and from the capitol, and the amount due each Senator for mileage.

Adopted.

Mr. De La Guerra presented the following report, which was, on motion of Mr. Shaw, accepted.

*Mr. President:*

The Joint Committee to whom was referred the printing of the Governor's message, respectfully recommend that there be printed of the Governor's message, 2,500 in English, and 500 in Spanish. A Concurrent Resolution for this purpose has already been introduced into the Assembly, which precludes the necessity for the presentation of one in the Senate.

DE LA GUERRA,

Chairman.

On motion of Mr. Dosh, the Secretary of the Senate was instructed to inform the Assembly that the Senate were now ready to meet them in Joint Convention.

The following was received from the Assembly:

*Mr. President:*

I am instructed to inform the Senate that the Assembly will be ready to receive them at one o'clock at the Assembly Chamber.

W. CAMPBELL,

Clerk of Assembly.

Whereupon, on motion of Mr. Dosh, the resolution of instruction to the Secretary was reconsidered, and by leave, withdrawn.

The hour having arrived to go into Joint Convention, pursuant to Concurrent Resolution heretofore passed, the Senate proceeded to the Assembly Chamber.

### IN JOINT CONVENTION.

Convention called to order by President of the Senate.

Senator Cosby absent.

Members of the House all present.

The President stated the object of the Joint Convention—the election of United States Senators.

The President appointed as Teller on the part of the Senate, Mr. McGee.

The Speaker on the part of the Assembly, Mr. O'Neill.

The Convention being organized, Mr. Westmoreland of the Senate, offered the following resolution:

*Resolved.* That the Convention now proceed to the election of a United States Senator, to fill the vacancy to be occasioned by the expiration of the term now held by the Hon. John B. Weller, which occurs on the fourth of March, A. D. 1857.

Mr. Hall, of the Assembly called for the reading of the Concurrent Resolution calling the Joint Convention.

Mr. McKune of the Assembly offered the following as a substitute to the resolution of Senator Westmoreland.

*Resolved,* That this Convention proceed to business as follows:

The Secretary of the Senate shall call the roll of Senators and Assemblymen, and each member as his name is called, shall rise in his place and pronounce the name of the candidate for whom he votes, with the words "for the long term," or "the short term," as the case may be; each member voting for candidates for both terms.

*Resolved,* That a majority of all the votes cast for either term, only shall elect.

The President ruled the resolution and substitute both out of order, stating that the Convention must proceed in accordance with the wording of the concurrent resolution calling the Joint Convention, to wit: the election for the short term first.



Mr. Westmoreland appealed from the decision of the Chair.

Upon which, after considerable debate, the ayes and noes were called for by Senators Westmoreland, Coffroth and Carpenter, with the following result :

Question :—Shall the decision of the President stand as the judgment of the Convention ?

Those who voted in the affirmative were :

AYES.

SENATE.—Messrs. Ashley, Burnett, Coffroth, Ferguson of Sierra, Fiske, Goodwin, Mesick, Waite and Walkup.

ASSEMBLY.—Beatty, Caperton, Castro, Catlin, Coil, Curtis, Ferris, Fourgeaud, Murphy, Phelps, Quimby, Rice, Smith, Safford, Stevenson, Watkins and Wyman—26.

Those who voted in the negative were :

NOES.

SENATE.—Messrs. Bell, Bynum, Carpenter, Chase, Crandall, De La Guerra, Dosh, Ferguson of Sacramento, Johnson of El Dorado, McCallum, McGee, Meloney, Mandeville, Merritt, Norman, Shaw, Soule, Sullivan, Taliaferro, Tilford, Westmoreland and Wilson.

ASSEMBLY.—Anderson, Aull, Barrett, Blake, Brent, Burch, Burns, Carpenter, Cassin, Chenery, Clark, Covarrubias, Davidson, Edwards, Estell, Fuller, Gilman, Graves, Hall, Hamm, Hare, Harrison, Holden, Howard, Hume, Hunt, Hunter, Inman, Irwin, Jenkins, Jessup, Kendrick, Larue, Livermore, Long, McDonald, McKune, Miles of Santa Cruz, Miles of Sierra, Miro, Mitchell, Moore, Morrison, O'Neill, Orvis, Palmer of Santa Clara, Patrick, Pierce, Ricks, Rodgers, Seawell, Shepard, Showalter, Shuler, Steele, Sweezy, Turner, Underwood, Varney, Warrington, Whipple and Wood—86.

So the decision of the Chair did not stand as the judgment of the Convention.

Question :—On the adoption of the substitute offered by Mr. McKune was taken.

Lost.

Question :—Upon the adoption of the original resolution offered by Mr. Westmoreland, was then taken.

Adopted.

The President announced nominations to be then in order.

Mr. Tilford nominated David C. Broderick for the long term.

Mr Blake nominated Edward Stanly.

Mr. Goodwin nominated James W. Coffroth.

Nominations being closed, the Convention proceeded to ballot, with the following result :

Those who voted for Mr. Broderick were :

SENATE.—Messrs. Carpenter, Chase, Crandall, De La Guerra, Dosh, Ferguson of Sacramento, Johnson of El Dorado, McGee, Meloney, Mandeville, Merritt, Norman, Shaw, Taliaferro, Tilford, Walkup, Westmoreland and Wilson.

ASSEMBLY.—Messrs. Anderson, Aull, Barrett, Beatty, Brent, Burns, Caperton, Carpenter, Cassin, Coil, Covarrubias, Davidson, Edwards, Estell, Fuller, Gilman, Graves, Hall, Hamm, Hare, Harrison, Holden, Howard, Hume, Hunt, Hunter, Inman, Irwin, Jenkins, Kendrick, Larue, Livermore, Long, McDonald, McKune, Miles of Santa Cruz, Miles of Sierra, Mitchell, More, Morrison, O'Neill, Orris, Patrick, Pierce, Ricks, Rodgers, Seawell, Showalter, Shuler, Safford, Steele, Sweezy, Turner, Underwood, Varney, Warrington, Whipple, Wood and Wyman—79.

Those who voted for Mr. Coffroth were, of the Senate—

Messrs. Ashley, Burnett, Bynum, Ferguson of Sierra, Fisk, Goodwin, McCallum, Mesick and Waite,

Of the Assembly—

Messrs. Castro, Catlin, Clark, Curtis, Ferris, Rice, Smith, and Stevenson—17.

Those who voted for Mr. Stanly were, of the Senate—

Messrs. Bell, Soule, and Sullivan.

Of the Assembly—

Messrs. Blake, Chenery, Fourgeaud, Jessup, Myro, Murphy, Palmer of San Francisco, Palmer of Santa Clara, Phelps, Quimby, and Shepard—14.

Mr. Coffroth voted for Mr. Bynum.

Mr. Watkins voted for Mr. Weller.

Mr. Broderick having received a majority of all the votes cast, the President declared him duly elected United States Senator for the State of California for the term of six years, from the 4th of March, 1857.

Mr. Tilford moved that the Convention adjourn until Monday next at 12 o'clock M, upon which the ayes and noes were called by Messrs. Waite, Ashley and Fisk, with the following result :

AYES.

SENATE.—Messrs. Bell, Carpenter, Chase, Crandall, De La Guerra, Dosh, Ferguson of Sacramento, Johnson of Sacramento, Johnson of El Dorado, McGee, Melony, Mandeville, Merritt, Norman, Shaw, Taliaferro, Tilford, Walkup, Westmoreland, Wilson—20.

NOES.

Messrs. Ashley, Burnett, Bynum, Coffroth, Ferguson of Sierra, Fiske, Goodwin, McCallam, Mesick, Soule, Sullivan, Waite—12.

AYES.

ASSEMBLY.—Anderson, Aull, Barrett, Beatty, Brent, Burch, Burns, Caperton, Carpenter, Cassin, Coil, Covarrubias, Edwards, Estell, Gilman, Graves, Hall, Hamm, Hare, Harrison, Holden, Hume, Hunt, Hunter, Inman, Irwin, Jenkins, Kendrick, Larue, Long, McDonald, McKune, Miles of Santa Cruz, Miles of Sierra, Mitchell, Moore, Morrison, O'Neill, Orvis, Patrick, Pierce, Ricks, Rogers, Seawell, Showalter, Shuler, Safford, Steele, Turner, Underwood, Varney, Warrington, Whipple, Wood, Wyman—75.

NOES.

Messrs. Blake, Castro, Catlin, Chenery, Clark, Curtis, Ferris, Fourgeaud, Fuller, Howard, Jessup, Livermore, Miro, Murphy, Palmer of San Francisco, Palmer of Santa Clara, Phelps, Quimby, Rice, Shepard, Stevenson, Sweezy, Watkins—35.

So the Convention adjourned, and the Senate withdrew to their Chambers.

IN SENATE.

On motion of Mr. McCallum, the Senate adjourned.

IN SENATE.

MONDAY, January 12th, 1857.

The Senate met pursuant to adjournment.

The President in the chair.

Prayer by the Rev. Mr. Benton.

The roll being called, the following members were found absent:

Messrs. Burnett, Bynum, Ferguson of Sacramento, McGee, Merritt, Sullivan, Tilford, Taliaferro, and Westmoreland.

A quorum being present, the journals of the preceeding day were read and approved.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly, on the 9th inst., adopted the accompanying resolution relative to the printing of the Governor's Message, and respectfully ask the concurrence of the Senate.

WILL. CAMPBELL,

Clerk Assembly.

January 12th, 1857.

*Resolved*, by the Assembly, the Senate concurring, that twenty-five hundred copies of the Governor's Message, without appendix or accompanying documents, be printed in English, and five hundred copies in Spanish, for the use of the Assembly.

Mr. Mandeville asked to be excused from further service on the Committee on the State Hospital.

Mr. Shaw having objected, the question was put and carried.

The President appointed Mr. Melony in place of Mr. Mandeville.

Mr. Melony, Chairman of the Committee on Engrossed Bills, made the following report:

*Mr. President:*

The Committee on Engrossment, have examined Senate Bill No. 3, entitled an Act to fix the terms of the District Court in the county of San Mateo, and find the same correctly engrossed.

A. R. MELONY,

Chairman.

Mr. McCallum, Chairman of the Committee upon Contingent Expenses, made the following report:

*Mr. President:*

The Committee to whom was referred the report of the Sergeant-at-Arms on



postage arrangements, report the Bill herewith presented, and recommend its passage.

J. G. McCALLUM,  
Chairman.

An Act, to provide for and limit the expenditures for Mail and Express matter of the Legislature.

Bill read first time.

Mr. McCallum moved the suspension of the rules, that the Bill might be placed upon its second reading.

Lost.

The Concurrent Resolution reported from the Assembly, was then taken up and acted upon.

Mr. Merritt moved to strike out "2,500" and insert 2,700; strike out "500" and insert 300.

Lost.

Mr. Walkup moved to amend by adding after the word "the" in last line, the words "Senate" "and."

Amendment adopted, and resolution passed.

Mr. Bell presented the following Bill:

An Act, to amend an act entitled an Act to regulate the interest of money, passed March 13th, 1850.

Bill read first time; rules suspended; read a second time and referred to the Judiciary Committee.

Mr. Shaw offered the following resolution:

*Resolved*, That the Sergeant-at-Arms of the Senate be, and he is hereby authorized to receive Controller's warrants, due for the pay of officers and members of the Senate, and to receipt to the Controller therefor in their behalf.

Adopted.

Mr. Fiske offered the following resolution:

*Resolved*, That the Sergeant-at-Arms be empowered to furnish four daily papers to each member of the Senate, or their equivalent in weeklies.

Mr. Shaw moved its reference to the Committee on Claims.

Carried.

Mr. Dosh offered the following resolution:

*Resolved*, That the resident clergy of Sacramento be respectfully invited to open the daily sessions of this body with prayer; *provided*, however, that the State be subjected to no expense for said service, and that they, the said clergymen, be requested to arrange, in a manner most convenient to themselves, the order in which they will perform the said sacred services.

Information being requested of the Secretary of the Senate, whether the Rev. Mr. Gallagher had accepted the office of Chaplain, Mr. Telford presented the following letter, which was read:

SAN FRANCISCO, January 9, 1857.

*To the Honorable the Senate of California—*

GENTLEMEN: I have the honor to acknowledge the receipt of a communication, of the 7th instant, from your Secretary, notifying me of my election as Chaplain to your Honorable body.

For this much esteemed mark of your regard, unsolicited and unexpected by me, I desire to return you my most cordial thanks, and to assure you that I entertain the highest appreciation of the signal honor you have conferred upon me.

I regret, however, that the duties at present devolving upon me as the assistant Pastor of St. Mary's Cathedral in this city, unavoidably compel me to deny myself the great gratification I should feel in accepting the position to which you have elected me.

I avail myself of the occasion to assure your Honorable Body that I shall not fail in my daily ministrations to invoke the Holy Spirit of Wisdom in your Councils, that the ends of good government may be subserved, the rights and liberties of the people maintained, and the resources of our young State thoroughly developed.

Again thanking you for the distinguished compliment paid me, evidencing as it does the tolerant and liberal sentiments of your Honorable Body, and commending you to Him in whose hands are the destinies of nations, that he may vouchsafe the light of his guidance in all your deliberations, and, to use the language of a great statesman, that all your "ends may be God's, your country's and truth's."

I have the honor to be, gentlemen, with unfeigned respect,

Your humble servant in Christ,

JOSEPH A. GALLAGHER.

On motion, the resolution was adopted.

Mr. Fiske offered the following resolution:

*Resolved* by the Senate, (the Assembly concurring), That the Standing Committee on Hospitals be directed to act as a Joint Committee with the Assembly to visit and examine into the condition of the Insane Asylum. Also to examine into the charges made against the late Resident Physician of said Asylum, with power to send for persons and papers.

Mr. Melony offered the following substitute :

*Resolved*, By the Senate, (the Assembly concurring,) that a committee of five be appointed to visit the Insane Asylum, at Stockton, for the purpose of investigating the medical and financial condition and management of the Asylum, under the present resident physician, Dr. Langdon, and his predecessor, Dr. Reid; said committee to be composed of members of the Hospital Committees of the two Houses, three from Senate and two from the Assembly, to be selected by the President of the Senate, and Speaker of the Assembly, and that said committee in their investigation, have power to send for persons and papers.

On motion of Mr. Mandeville, the substitute was adopted.

Mr. Walkup moved to strike out the words "three" and "two," and insert the words "two" and "three," which was carried, and the resolution as amended was adopted.

Mr. Bell gave notice, that he will, at an early day, introduce into the Senate, "A bill to provide for the Registry of the names of the legal voters of the cities and other portions of the State."

Mr. Dosh gave notice, that he will, at an early day, introduce "A bill to fix the salary of the County Judge of Tehama county."

Also, "An Act to fix the time of holding the Courts authorized to be held by the County Judge of Tehama county."

The following message was received from the Assembly :

*Mr. President :*

I am directed to inform the Senate, that the Assembly are now ready to meet them in Joint Convention.

W. CAMPBELL,

Clerk of Assembly.

January 12th, 1857.

Mr. Wilson, Chairman of the Committee on Mileage, made a report, which, on motion of Mr. Coffroth, was laid upon the table.

The hour having arrived for the meeting of the Joint Convention, the Senate proceeded to the Assembly Chamber.

## IN JOINT CONVENTION.

The roll was called, and the following members were present :

SENATE.—Ashley, Bell, Burnett, Bynum, Carpenter, Chase, Coffroth, Crandall, Cosby, De La Guerra, Dosh, Ferguson of Sacramento, Ferguson of Sierra,  
12s

Fiske, Goodwin, Johnson of Sacramento, Johnson of El Dorado, McCallum, McGee, Melony, Mandeville, Merritt, Mesick, Norman, Shaw, Soule, Sullivan, Taliaferro, Tilford, Waite, Walkup, Westmoreland, Wilson.

ASSEMBLY.—Anderson, Aull, Barrett, Beatty, Blake, Brent, Burch, Caperton, Carpenter, Cassin, Castro, Catlin, Chenery, Clark, Coil, Covarrubias, Curtis, Davidson, Edwards, Estell, Ferris, Fourgeaud, Fuller, Gilman, Graves, Hall, Hamm, Hare, Harrison, Holden, Howard, Hume, Hunt, Hunter, Inman, Irwin, Jenkins, Jessup, Kendrick, Larue, Livermore, Long, McDonald, Miles of Santa Cruz, Miles of Sierra, Miro, Mitchell, Moore, Morrison, Murphy, O'Neill, Orvis, Palmer of San Francisco, Palmer of Santa Clara, Patrick, Phelps, Pierce, Quimby, Rice, Ricks, Rogers, Seawell, Shepard, Showalter, Shuler, Smith, Safford, Steele, Stevenson, Sweezy, Turner, Underwood, Varney, Warrington, Watkins, Whipple, Wood, Wyman.

Messrs. Burns and McKune, of the Assembly, were absent.

The Convention being organized, the President declared nominations for United States Senator, for the short term, to be in order.

Whereupon—Mr. Mandeville moved that the Convention adjourn until tomorrow, 12 o'clock, M.

Upon which, the ayes and noes were called for by Messrs. Coffroth, Watkins, and Catlin, with the following result :

#### AYES.

SENATE.—Messrs. Bynum, Carpenter, Chase, Crandall, De La Guerra, Dosh, Ferguson, of Sacramento, Johnson, of Sacramento, Johnson, of El Dorado, McGee, Melony, Mandeville, Merritt, Norman, Shaw, Taliaferro, Tilford, Walkup, Westmoreland, Wilson.

ASSEMBLY.—Messrs. Anderson, Aull, Barrett, Beatty, Brent, Burch, Caperton, Carpenter, Cassin, Castro, Coil, Covarrubias, Davidson, Edwards, Estell, Fuller, Gilman, Graves, Hall, Hamm, Hare, Harrison, Holden, Howard, Hume, Hunt, Hunter, Inman, Irwin, Jenkins, Kendrick, Larue, Livermore, Long, McDonald, Miles of Santa Cruz, Miles of Sierra, Mitchell, Moore, Morrison, O'Neill, Orvis, Patrick, Pierce, Ricks, Rogers, Seawell, Showalter, Shuler, Safford, Steele, Sweezy, Turner, Underwood, Varney, Warrington, Whipple, Wood, and Wyman  
—79.

#### NOES.

SENATE.—Messrs. Ashley, Bell, Burnett, Coffroth, Cosby, Ferguson of Sierra, Fiske, Goodwin, McCallum, Mesick, Soule, Sullivan, and Waite.

ASSEMBLY.—Messrs. Blake, Catlin, Chenery, Clark, Curtis, Ferris, Fourgeaud,



Jessup, Miro, Murphy, Palmer of San Francisco, Palmer of Santa Clara, Phelps, Quimby, Rice, Shepard, Smith, Stevenson, and Watkins—32.

So the motion was carried, and the Convention adjourned.

Whereupon the Senate withdrew to their Chamber.

## SENATE.

Mr. Mandeville moved to adjourn, upon which the ayes and noes were called by Messrs. Merritt, Fiske and De La Guerra, with the following result :

### AYES.

Messrs. Burnett, Cosby, Crandall, Chase, De La Guerra, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Johnson of El Dorado, Mandeville, Melony, Norman, Soule, Sullivan, Westmoreland, Wilson—16.

### NOES.

Messrs. Ashley, Bynum, Bell, Coffroth, Carpenter, Fiske, Goodwin, Johnson of Sacramento, McCallum, Merritt, Mesick, Shaw, Taliaferro, Waite, Walkup—15.

So the Senate adjourned.

## IN SENATE.

TUESDAY, January 13th, 1857.

Senate met pursuant to adjournment.

President in the Chair.

Prayer by the Rev. Mr. Hill.

The roll being called the following members were absent :

Messrs. De La Guerra, Ferguson of Sacramento, Merritt, Tilford, Taliaferro, and Westmoreland.

A quorum being present the Journals of yesterday were read, and on motion of Mr. Mandeville the Report of the Committee on Mileage was stricken out, and the Journals as amended were approved.

Mr. Shaw presented a Petition from citizens of San Francisco, asking for an amendment to the General Incorporation Act, so as to include the Trades and Protection Society, which was received and referred to the Committee on Corporations.

#### ORDERS OF THE DAY.

A Bill entitled An Act to provide for and limit the expenditures for Mail and Express matter of the Legislature, read a second time and referred to the Committee on Finance.

On motion of Mr. Wilson the Report of the Committee on Mileage, which was laid upon the table yesterday, was ordered to be taken from the table and recommitted to the Committee on Mileage.

Mr. Bell gave notice that at an early day he will introduce a Bill revising portions of the Jury and Criminal Laws of this State.

Mr. Bell introduced the following Resolution :

*Resolved*, That so much of the Governor's Message as relates to the revenues of the State, be referred to the Committee on Finance, with instructions to bring in a Bill at an early day, in accordance in the main, with its recommendations.

Mr. Burnett moved the indefinite postponement of the Resolution.

Mr. Shaw moved to strike out all after the word "Finance," which was accepted.

The Resolution as amended was then adopted.

On motion of Mr. Goodwin the vote adopting the Resolution inviting the Resident Clergy to open the daily sessions of the Senate, was reconsidered, and the Resolution placed among the orders of the day.

Mr. Goodwin offered the following substitute :

*Resolved*, That the Rev. Messrs Baker, Benton, Gober, Hill, Parish, Peck, Phillips, Quinn, and Shuck, resident Pastors of the various Christian Churches in this city be invited to officiate in turn as Chaplains of the Senate, and to open with prayer the daily sessions of this body.

Mr. Ashley moved the indefinite postponement of the Resolution and Substitute, pending which the following Message was received from the Assembly :

*Mr. President :*

I am directed to inform the Senate that the House is now ready to receive them in Joint Convention.

W. CAMPBELL,  
Chief Clerk.

### IN JOINT CONVENTION.

Convention called to order by President of the Senate.

Senators all present.

Members of the House all present.

The President stated the object of the Joint Convention—the election of a United States Senator, to fill the vacancy occasioned by the expiration of the term of the Hon. William M. Gwin, on the fourth of March, eighteen hundred and fifty-five.

The President appointed as Teller on the part of the Senate Mr. McGee.

The Speaker appointed on the part of the Assembly Mr. Estell.

The Convention being organized the President announced nominations to be in order.

Mr. Mandeville nominated William M. Gwin.

Mr. Coffroth nominated H. A. Crabb.

Mr. Chenery nominated A. A. Sergeant.

Nominations being closed, the Convention proceeded to ballot with the following result.

Those who voted for Mr. Gwin, were—

SENATE—Messrs. Carpenter, Chase, Crandall, De La Guerra, Dosh, Ferguson of Sacramento, Johnson of Sacramento, Johnson of El Dorado, McGee, Melony, Mandeville, Merritt, Norman, Shaw, Taliaferro, Tilford, Walkup, Westmoreland, and Wilson.

ASSEMBLY—Messrs. Anderson, Aull, Barrett, Beatty, Brent, Burch, Burns, Caperton, Carpenter, Cassin, Coil, Covarrubias, Curtis, Davidson, Edwards, Estell, Fuller, Gilman, Graves, Hall, Hamm, Hare, Harrison, Holden, Howard, Hume, Hunt, Hunter, Inman, Irwin, Jenkins, Kendrick, Larue, Livermore, Long, McDonald, McKune, Miles of Santa Cruz, Miles of Sierra, Mitchell, Moore, Morrison,

O'Neill, Orris, Patrick, Pierce, Ricks, Rogers, Seawell, Showalter, Shuler, Smith, Safford, Steele, Sweezy, Turner, Underwood, Varney, Warrington, Watkins, Whipple, Wood, and Wyman—82.

Those who voted for Mr. Crabb were—

SENATE—Messrs. Ashley, Burnett, Bynum, Coffroth, Cosby, Ferguson of Sierra, Fiske, Goodwin, McCallum, Mesick, and Waite.

ASSEMBLY—Messrs. Castro, Catlin, Clark, Ferris, Rice, and Stevenson—17.

Those who voted for Mr. Sergeant were—

ASSEMBLY—Messrs. Blake, Chenery, Fourgeaud, Jessup, Miro, Murphy, Palmer of San Francisco, Palmer of Santa Clara, Phelps, Quimby, and Shepard—11.

Messrs. Bell and Sullivan voted for Mr. Stanley; and Mr. Soule for O. L. Shafter.

Mr. Gwin having received a majority of all the votes cast, the President declared him duly elected United States Senator for the State of California for the term of six years from the fourth of March, eighteen hundred and fifty-five,

The business for which the Convention assembled being concluded,

The President declared the Convention adjourned *sine die*, and the Senate withdrew to their Chamber.

## IN SENATE.

On motion of Mr. Mandeville, the Senate adjourned

## IN SENATE.

WEDNESDAY, January 14, 1857.

Senate met pursuant to adjournment.

President in the Chair.

Prayer by the Rev. Mr. Benton.



The roll being called, the following members were absent:

Messrs. Coffroth, Dosh, Ferguson of Sacramento, Fiske, and Telford.

A quorum being present, the Journals of yesterday were read.

On motion of Mr. Shaw amended; and as amended approved.

On motion of Mr. De la Guerra, Mr. Wilson was granted leave of absence until Monday next.

Mr. Shaw presented a bill entitled an Act to Protect from Forced Sale a certain portion of the Homestead and other property of all heads of families.

Bill read first time, rule suspended, read a second time, and referred to the Judiciary Committee,

Mr. De la Guerra presented the following resolution:

*Resolved*, That the Secretary of State be requested to inform the Senate why the laws directed to be published in Spanish last session have not been published and distributed.

Mr. Bynum gave notice that, at an early day, he will introduce an Act entitled an Act to Legalize certain Records in Solano County.

Mr. Crandall gave notice that he will, at an early day, introduce a bill for an Act to increase the pay of the Board of Supervisors of Amador County.

Mr. Bell gave notice that on to-morrow he will introduce a bill entitled an Act granting to the Alameda County Shell Turnpike Company certain Overflowed Lands in Alameda County.

Mr. Bell gave notice that, at some future day, he will introduce a bill to provide for the Apprenticing of Orphan Children.

Mr. Merritt presented the following letter, which the Secretary was directed to read for information:

#### PETITIONS.

Mr. Johnson, of Sacramento, presented the petition of A. M. Winn, Brigadier General, for compensation for services rendered, which was read and referred to the Committee on Claims.

The resolution relative to the resident clergy of Sacramento, under discussion yesterday at the hour of proceeding into Joint Convention, was then taken up. The question being on the indefinite postponement of the whole matter,

Mr. Goodwin, by leave, withdrew the substitute.

The question being upon the indefinite postponement of the resolution, upon which the ayes and noes were demanded by Messrs. Carpenter, Fiske and Melony, with the following result

Those voting in the affirmative were—Messrs. Ashley, Bennett, Bynum, Coffroth, Cosby, Crandall, De la Guerra, Ferguson of Sierra, Johnson of Sacramento, Johnson of El Dorado, McGee, Melony, Merritt, Mesick, Norman, Shaw, Soule, Sullivan, Taliaferro, Waite, Westmoreland, and Walkup—22.

Those voting in the negative were—Messrs. Bell, Carpenter, Chase, Dosh, Fiske, Goodwin, Mandeville, and McCallum—8.

So the resolution was indefinitely postponed.

The following message was received from the Assembly :

*Mr. President :*

I am directed to inform the Senate that the Assembly have this day passed Assembly bill No. 1, entitled an Act Appropriating Money for Postage and Express purposes, during the present session of the Legislature.

W. CAMPBELL,

Clerk of Assembly.

January 14th, 1857.

Mr. Dosh offered the following resolution :

*Resolved*, That a committee of three members of this body be appointed to meet the House committee at the office of the Treasurer of State, at the hour of one o'clock P. M. of this day, for the purpose of superintending the counting of the moneys of the State now in the State Treasury.

Resolution adopted, and Messrs. Dosh, Walkup and McCallum appointed Committee on the part of the Senate.

The Committee on Mileage made the following Report :

The Committee on Mileage report the following as the number of miles, by the nearest route, from the residence of each Senator to the place where the Session of the Legislature is held, and returning therefrom, and the amount each Senator is entitled to receive :

Names.	Miles.	Pay.
Ashley .....	640	\$256 00
Burnett .....	90	40 00
Bynum .....	220	88 00
Bell .....	300	60 00
Coffroth .....	250	104 00
Cosby .....	810	328 00

Crandall .....	80	32 00
Carpenter .....	140	28 00
Chase .....	140	28 00
De La Guerra .....	1180	480 00
Dosh .....	450	184 00
Ferguson, of Sierra .....	280	56 00
Fiske .....	120	48 00
Goodwin .....	90	20 00
Johnson, of El Dorado .....	112	24 00
Mandeville .....	250	52 00
McCallum .....	130	56 00
McGee .....	360	136 00
Melony .....	160	32 00
Merritt .....	320	64 00
Mesick .....	90	20 00
Norman .....	128	56 00
Shaw .....	280	112 00
Soule .....	280	56 00
Sullivan .....	280	56 00
Tilford .....	280	112 00
Taliaferro .....	440	88 00
Waite .....	140	56 00
Westmoreland .....	134	56 00
Wilson .....	1392	560 00
Walkup .....	95	20 00

All of which is respectfully submitted.

S. H. CHASE,  
Chairman *pro tem*.

Mr. Mandeville moved the recommitment of the report to the Committee.

Lost.

Mr. McCallum moved the adoption of the report.

By leave, Mr. Dosh's mileage was changed from 184 to "180," and the report as amended was adopted.

Mr. Coffroth moved to take from the table the Concurrent Resolution for the election of Physicians to the Insane Asylum.

Lost.

Assembly Bill No. 1, entitled an Act appropriating money for Postage and Express purposes during the present session of the Legislature, was taken up.

Bill read first time; rule suspended. Bill read a second time and referred to the Finance Committee.

Mr. Shaw, one of the Committee on Claims, to whom was referred the resolution authorizing the Sergeant-at-Arms to furnish four daily papers to each member, reported the following as a substitute.

*Resolved*, That the Sergeant-at-Arms be empowered to furnish during this Session, three daily papers to each member of the Senate, or their equivalent in weeklies; Provided the cost for each Senator shall not exceed eighteen dollars.

Adopted.

Mr. Bell moved to strike out "three" and insert "five."

Mr. Goodwin moved the indefinite postponement of the resolution. Upon which, the ayes and noes were demanded by Messrs. Norman, McCallum, and Fiske.

Mr. Coffroth moved a call of the House.

Carried.

The Secretary called the roll. The following Senators absent:

Messrs. Carpenter, De La Guerra, Ferguson of Sacramento, Mandeville, Sullivan and Tilford.

The Sergeant-at-Arms was dispatched after absent members.

Mr. Coffroth moved that leave of absence be granted Messrs. Dosh, Walkup and McCallum, the committee to examine and count the moneys in the State Treasury.

Lost.

Mr. Shaw moved a suspension of the call.

Lost.

Mr. Walkup moved that the Senate agree unanimously to grant leave of absence to said committee.

Objections being made, motion was lost.

Mr. McCallum moved the suspension of the call.

Carried.

Mr. Bell moved to adjourn, upon which the ayes and noes were demanded by Messrs. Norman, Ashley and Coffroth, with the following result :

Those voting in the affirmative were—

Messrs. Bell, Crandall, Chase, Johnson of El Dorado, McGee, and Soule—6.



Those voting in the negative were—Messrs. Ashley, Burnett, Bynum, Coffroth, Cosby, Dosh, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, McCallum, Meloney, Merritt, Mesick, Norman, Shaw, Taliaferro, Waite, Westmoreland and Walkup—20.

So the motion was lost.

The question was then taken on the indefinite postponement of the resolution and lost.

The question recurring on the motion of Mr. Bell to strike out "three" and insert "five," was taken and lost.

On motion of Mr. Coffroth, the word "three" was struck out and the word "four" inserted.

Mr. Shaw offered the following amendment:

"And the Controller is hereby inhibited from auditing or allowing any sum exceeding the amount aforesaid."

The resolution as amended was then adopted :

The President announced the following as the Joint Standing Committee on Printing, on the part of the Senate :

Messrs. Ashley, Johnson of Sacramento, and Burnett.

The President extended an invitation, on behalf of the Hon. Wm. M. Gwin, to the Senators, to partake of a collation on Monday next, at his residence, in San Francisco.

Mr. Soule tendered to the Senators a free passage to and from San Francisco upon the boats of the California Steam Navigation Company, on his own behalf.

On motion of Mr. Fiske, a vote of thanks was tendered to Mr. Soule.

On motion of Mr. Bell, the Senate adjourned.

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## IN SENATE.

THURSDAY, January 15, 1857.

Senate met pursuant to adjournment.

President in the Chair.

Roll called, and the following members were absent:

Messrs. Ferguson of Sacramento, Ferguson of Sierra, Jonuson of El Dorado, Merritt, Norman and Sullivan.

Journals of yesterday read.

On motion of Mr. McCallum, the letter of Mr. Parrish was struck from the Journals, and the Journals approved.

Mr. Bell presented the petition of Francis R. Crussill, with accompanying papers, for relief; which, on motion of Mr. Fiske was referred to Committee on Claims.

Mr. Meloney, Chairman of the Committee on Engrossed Bills, made the following report:

*Mr. President:*

The Committee on Engrossment have examined Senate bill No. 2, entitled an Act to fix the time for holding the terms of the District Court of the Ninth Judicial District of the State, and find the same correctly engrossed.

A. P. MELONY,  
Chairman.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate, that the Assembly, on yesterday, concurred in Senate resolution appointing a Joint Committee of five members of the Legislature to visit and examine the Insane Asylum at Stockton, and Messrs Hamin, Miles of Sierra and Moore, have been appointed on the part of the House.

The Assembly have also concurred in the Senate amendment to the concurrent resolution as to printing the Governor's Message.

The following concurrent resolution has also been adopted:

*Resolved* by the Assembly, (the Senate concurring), That twenty-five hundred copies of each the Controller's and Treasurer's reports, and two hundred and forty copies of each the Attorney General's and Secretary of State's reports, be printed for the use of the Senate and Assembly, and ask the concurrence of the Senate.

Respectfully,

W. CAMPBELL,  
Clerk of Assembly.

JANUARY 14, 1857.

Mr. Merritt moved that the Senate concur in the resolution.

On motion of Mr. Ashley, the resolution was referred to the Joint Committee on Printing.

The President announced the following Committee on the part of the Senate to visit the Insane Hospital at Stockton :

Messrs. Waite and Meloney.

The following communication was received from the Secretary of State :

STATE OF CALIFORNIA,  
Office of Secretary of State,  
January 15th, 1857. }

*To the Honorable the Senate :*

In reply to a resolution of the Senate, adopted on the 14th inst., "requesting the Secretary of State to inform the Senate why the laws directed to be published in Spanish, last session, have not been published and distributed," I have the honor to Report :

That under the law relative to the translation of the laws into the Spanish language, contained in the 15th section of the "Act relative to the office of Secretary of State," passed May 15, 1854, I advertised for proposals, and the contract for translation was duly awarded to A. Ainsa ; and certain laws were selected by the Joint Committee of the Legislature to be translated into that language ; said laws, amounting to thirty-five in number, I caused to be copied and forwarded to the Translator on the first day of May last, with instructions to translate them as early as possible and then turn over the translation to the State Printer for printing.

Instead, however, of translating only the laws that had been selected and forwarded to him for that purpose, the Translator, through the Attorney General, presented to me some time during the last fall, I think in the month of October, a translation of the entire body of the laws passed at the last session, with the statement that unless I received the entire number of laws translated, he would not deliver any. Under this state of things I did not feel myself at liberty to incur a greater expense to the State than had been authorized by the Legislature, and consequently refused to receive the translation of the entire body of laws thus presented. The Translator refused to deliver a part, and I refused to receive the whole, not deeming myself justified, under the law, to receive and pay for a greater number of laws than had been selected by the Legislature for translation. This is the reason why the laws have not been published in Spanish.

I have the honor to be,

Very respectfully,

DAVID F. DOUGLASS,

Secretary of State.

Which on motion was referred to Judiciary Committee.

Mr. Tilford, by leave, introduced the following Bill :

An Act to legalize certain conveyances.

Bill read first and second time, rules suspended, and referred to San Francisco Delegation.

Mr. Bell introduced the following Bill :

An Act granting to the Alameda County Shell Turnpike Company certain overflowed lands in Alameda County.

Bill read first and second time, rules suspended, and referred to Committee on Public Lands.

The following Message was received from the Assembly :

*Mr. President :*

I am directed to inform the Senate that the Assembly on yesterday passed Senate Bill No. 3, entitled An Act to fix the terms of the District Court in the County of San Mateo.

Also, have adopted a Resolution relative to the translation of the Laws into the Spanish language, and respectfully ask the concurrence of the Senate. The Committee appointed on part of the House is Messrs. Covarrubias, Brent and Hume.

W. CAMPBELL,  
Clerk Assembly.

Mr. Carpenter gave notice that at an early day he will introduce a Bill for an Act amending an Act entitled An Act to regulate proceedings in Civil Cases in this State.

On motion of Mr. Tilford, it was ordered that the usual number of copies of Senate Bill No. 7 be published.

The Report of the Superintendent of Public Instruction was taken up and read.

Mr. Fiske moved its reference to Committee on Education, and that 240 copies of the Report be printed.

Mr. Shaw moved its reference to Committee on Printing.

Mr. Fiske withdrew his motion,—when, on motion of Mr. Walkup, the report was referred to the Joint Committee on Printing.

On motion of Mr. Taliaferro, the Committee on Claims were requested to report upon the resolution referred to them, for the relief of Mr. Cornwall.

On motion of Mr. Shaw, the Bill for an Act recommending to the electors to



vote for or against a Convention to revise and change the Constitution of this State, which was made the special order for to-day, was referred to a special Committee of five to be appointed by the President.

Whereupon the following Committee was announced:

Messrs. Shaw, Ashley, Wilson, Waite, and Mandeville.

The Concurrent Resolution relative to the translation of the laws into Spanish, was taken up; concurred in, and Messrs. De La Guerra, Taliaferro and Cosby, were appointed said Committee on the part of the Senate.

Mr. Shaw, by leave, introduced the following Bill:

An Act to further extend the Act concerning corporations, passed April 22d, 1850.

Bill read first time; rule suspended, read a second time.

Mr. Shaw moved its reference to Committee on Corporations.

Carried.

Mr. Shaw moved that 240 copies of the Bill be printed.

Mr. Fiske moved its reference to the Printing Committee.

Whereupon, Mr. Shaw withdrew his motion to print, and the Bill stood referred to Committee on Corporations.

Mr. Burnett gave notice that at an early day he will introduce a Bill for an Act to amend an act entitled an Act to authorize married women to transact business in their own names as sole traders, passed April 12th, 1852.

Mr. Bynum introduced a bill for an Act to Legalize certain Records in the county of Solano.

Bill read first time, rules suspended, read a second time, and referred to the Judiciary Committee.

Mr. Johnson, of Sacramento, Chairman of the Finance Committee, made the following report:

*Mr. President:*

Your committee, to whom was referred Assembly bill No. 1, an Act relating to Postage and Express matter, beg leave to report that they have had the same under consideration, and report the bill back to the Senate with amendments, and recommend its passage as amended.

JOSIAH JOHNSON,

Chairman.

On motion of Mr. McCallum, the bill and report were considered in Committee of the Whole, and reported back to the Senate, recommending its passage with the amendments.

## IN SENATE.

The report of the Committee of the Whole adopted.

Mr. Bell offered the following amendment :

"That the Enrolling and Engrossing Clerks, Sergeant-at-Arms, and Door-Keeper, be allowed postage money.

Lost.

The bill as amended was then read a third time and passed.

The following message was received from the Assembly :

*Mr. President :*

I am directed to inform the Senate that the Assembly has adopted a resolution relative to the State Prison, and respectfully ask the concurrence of the Senate.

W. CAMPBELL,

Clerk of Assembly.

*Resolved*, by the Assembly, (the Senate concurring,) That the members of the Committee on the State Prison, of the Senate and Assembly, have leave of absence for the purpose of visiting the State Prison, and that every member of said committee have power to administer oaths ; that said committee jointly have power to send for persons and papers, and that the said committee act jointly.

On motion of Mr. Shaw, the resolution was referred to the Committee on Claims.

Carried.

The following message was received from the Assembly :

*Mr. President :*

I am directed to inform the Senate that the Assembly have to-day adopted a resolution relative to the Joint Committee for ascertaining the amount of treasure in the hands of the State Treasurer, and respectfully ask the concurrence of the Senate.

Respectfully,

W. CAMPBELL,

Clerk of Assembly.

*Resolved*, The Senate concurring, That the Special Committee of the Senate

and Assembly, appointed to ascertain the amount of treasure in the office of the State Treasurer, be and they are hereby made a Joint Committee.

On motion of Mr. Shaw, the Senate concurred.

Mr. Walkup gave notice that at an early day he will introduce a bill to limit the time for presenting claims against Counties.

Mr. Westmoreland offered the following resolution:

*Resolved*, That the Committee on Claims be and are hereby required to report, to-morrow, what action they have taken on a joint resolution which passed the Assembly to-day, relative to the two Committees on State Prison visiting that institution.

Adopted.

The following message was received from the Governor :

EXECUTIVE DEPARTMENT,  
Sacramento, Jan. 15, 1857. }

*To the Senate of California :*

I herewith transmit to your honorable body the Annual Report of the Surveyor General of this State.

J. NEELY JOHNSON.

Mr. Westmoreland moved the reading of the Report.

Carried.

The caption of the Report being read—

Mr. Cosby moved to suspend the further reading of the Report, which was agreed to.

Mr. McCallum moved its reference to the Joint Committee on Printing.

Adopted.

Mr. Westmoreland gave notice that at some future time he will introduce a bill to change the name of Edward Compton Higginbottom to Edward Compton Howard.

On motion of Mr. Crandall, the Senate adjourned.

## IN SENATE.

FRIDAY, January 16th, 1857.

Senate met pursuant to adjournment.

President in the Chair.

Roll called and the following Senators absent:

Messrs. Burnett and Cosby.

Mr. Melony asked leave of absence for Senators Mandeville and Norman, until Tuesday next.

Granted.

Mr. Shaw asked leave of absence for the day, for Senator Tilford.

Granted.

Mr. Johnson, of Sacramento, asked leave of absence for Mr. Sullivan for the remainder of the week.

Granted.

Journals of yesterday read and approved.

## PETITIONS.

Mr. Dosh presented the petition of sundry citizens of Tehama county, to change the county seat.

Referred to Mr. Dosh.

Mr. Crandall, Chairman of Enrolling Committee, made the following report:

*Mr. President:*

Your Committee on Enrollment, have examined Senate Bill No. 3, an Act to fix the terms of the District Court in the county of San Mateo, and find the same correctly enrolled.

D. CRANDALL,  
Chairman.



Report accepted.

The following report was received from the Committee on Claims:

*To the Hon. the Senate:*

The Committee on Claims, would report that the Committee has organized by electing Mr. Shaw as Chairman of the same.

S. BYNUM,  
HENRY M. FISKE,  
D. R. ASHLEY,  
Of the Committee.

Mr. Shaw moved that the Report be rejected.

The President ruled the motion out of order, so the Report was accepted.

The following Message was received from the Assembly :

*Mr. President :*

I am directed to inform the Senate, that on yesterday the Assembly passed Assembly Bill No. 5, entitled An Act concerning County Officers in the County of Placer. Also, have passed Assembly Bill No. 6, entitled An Act to change the name of Leopold Yorkowski to Leopold Ross.

W. CAMPBELL,  
Clerk Assembly.

Also, Speaker has under Joint Rule of the Legislature No. 18, requiring the appointment of a Joint Standing Committee of three from each House to examine all matter proposed to be printed by concurrent order, &c., appointed Messrs. Sweezy, Clark and Varney said Committee on the part of the Assembly.

The Assembly have on yesterday passed a Bill for an Act to legalize and confirm the election of certain officers.

W. CAMPBELL,  
Clerk Assembly.

The Committee on Corporations made the following Report :

*Mr. President :*

The Committee on Corporations, to whom was referred an Act to further extend the Act concerning Corporations, passed April 22d, 1850, report that they have considered the same, and recommend its passage, with the accompanying amendment.

E. G. WAITE,  
J. W. COFFROTH,  
R. S. MESICK,  
WM. J. SHAW.

Amend Section 2, line 7. After the word "husband" strike out all to the word "nor" in line 8.

Report accepted.

On motion of Mr. Shaw the amendment was adopted.

The Bill as amended was read and ordered to be engrossed, rules further suspended, read third time and passed.

#### ASSEMBLY MESSAGES.

Assembly Bill No. 5, an Act concerning County Officers in the county of Placer.

Read first time. Rule suspended. Bill read a second time, and referred to Placer Delegation.

Assembly Bill No. 6, an Act to change the name of Leopold Yorkowski to Leopold Ross.

Read first time. Rule suspended. Bill read a second time.

On motion, the rule was further suspended, and the bill read third time.

Mr. McCallum offered the following Resolution :

*Resolved*, That the bill be referred to Judiciary Committee, with instructions to report on Monday next, whether an Act of the Legislature is necessary to authorize any individual to change his name, and if so, to report a general Act on the subject, or in favor of this bill.

Lost.

The question being on the final passage of the bill, was put, and the bill passed.

Assembly Bill No. 9, an Act to legalize and confirm the election of certain officers.

Bill read first time. Rule suspended. Read a second time, and referred to the Senator from Siskiyou.

Mr. Westmoreland introduced the following bill :

An Act to change the name of Edward C. Higginbottom to Edward Compton Howard.

Bill read first time. Rule suspended. Read a second time and referred to Judiciary Committee.

Mr. Walkup introduced a bill for an Act to limit the time for presentation of claims against counties, and for receiving payment for the same.

Bill read first time, rules suspended, read second time, and on motion of Mr. Ashley referred to Judiciary Committee.

Mr. Shaw introduced the following bill :

An Act concerning Insolvent Debtors and attachments against their property.

Bill read first time. Rule suspended. Bill read a second time, and referred to Judiciary Committee.

On motion of Mr. Shaw 240 copies of the bill were ordered printed.

Mr. Merritt introduced the following Resolution :

*Resolved*, That the Judiciary Committee be, and are hereby instructed, to report a bill for an Act giving to some competent Board or Tribunal of this State authority to change the names of individuals.

Adopted.

Mr. McCallum introduced the following resolution :

*Resolved*, By the Senate, the Assembly concurring, That a Joint Committee, consisting of three on behalf of the Senate, and a like number on behalf of the Assembly, be appointed to ascertain what amount of revenue was paid into the State Treasury for the year preceding January 1st, 1857 ; what proportion of the same in coin and in gold dust, also in Controller's warrants ; by what authority Controller's warrants were so received, and what proportion of the revenue was actually paid in Controller's warrants, either to the State Treasurer's office or Controller of State's office ; and in case Controller's warrants were substituted for cash, by whom and by what authority. That each member of said Committee be authorized to administer oaths, and the Committee be authorized to send for papers and require the attendance of witnesses.

Adopted.

Messrs. McCallum, Dosh and Waite were appointed said Committee on part of Senate.

Mr. De La Guerra introduced the following concurrent resolution :

*Resolved*, By the Senate, the Assembly concurring, That the Attorney General commence legal proceedings against A. Ainsa, State Translator, for failure in furnishing copies of the translation of the laws into the Spanish language.

Adopted, and referred to Committee on Judiciary.

Mr. Johnson, of Sacramento, gave notice that at an early day he will introduce a bill to amend an Act relating to Swamp and Overflowed Lands, passed April 28th, 1855.

Mr. Dosh introduced the following bill, by leave :

An Act, fixing the time of holding the several Courts authorized to be held by the County Judge of Tehama county.

Bill read first time—rule suspended ; read a second time, and ordered to be engrossed. Rule further suspended ; bill read third time and passed.

Mr. Dosh gave notice, that at an early day he will introduce a bill to provide for the working of Mines and Minerals, found in lands lying, or being within the grants heretofore made by the crown of Spain, or the Supreme Government of Mexico, to private persons, prior to the treaty of Guadalupe Hidalgo.

The President announced Messrs. McCallum, Dosh and Waite, as the committee on part of Senate, on the Joint Resolution of Mr. McCallum, introduced this morning.

The following communication was read:

SACRAMENTO, January 15th, 1857.

Lieut. Gov. ANDERSON.

*President of the Senate :*

SIR:—I am authorized by Maj. Hensley, President of the California Steam Navigation Company, to tender to the members of both branches of the Legislature, a free passage to San Francisco and back, on the occasion of the collation proffered them by the Hon. Dr. Gwin, and Hon. David C. Broderick.

Truly yours, &c.

ALFRED REDINGTON,

Agent Sacramento.

On motion of Mr. Merritt, a vote of thanks was tendered to the California Steam Navigation Company.

MESSAGE FROM THE ASSEMBLY.

*Mr. President:*

I am directed to inform the Senate that the Assembly have to-day concurred in the Senate amendments to Assembly bill No. 1, entitled an Act appropriating Money for Postage and Express purposes during the present session of the Legislature.

W. CAMPBELL,

Clerk of Assembly.

JANUARY 16, 1857.

Mr. Crandall, Chairman of the Committee on Enrolled Bills, made the following report, which was accepted :

*Mr. President :*

Your Committee on Enrollment have this day presented to his Excellency the Governor, an Act to fix the Terms of the District Court in the county of San Mateo.

D. CRANDALL,

Chairman.

Mr. Shaw, Chairman of Committee on Claims, made the following report:



*Mr. President:*

The Committee on Claims, to whom was referred the Joint Resolution concerning the Committee on State Prison's visit to that institution, have had the same under consideration, and report the same back with the following amendment:

WM. J. SHAW,  
Chairman.

At the end of the Resolution, add as follows:

"*Provided*, however, that no member of the said Committee, nor other person employed by, or going with them, be allowed to receive any mileage exceeding two dollars for every twenty miles actually traveled in going to and returning from the State Prison. And the Controller is hereby inhibited from auditing, or allowing any demand for Clerk hire or any other or greater amount than as aforesaid, unless for the attendance of witnesses, according to the rates allowed by law."

Amendment adopted.

Mr. Fiske offered the following substitute:

*Resolved*, by the Senate, the Assembly concurring, That a Committee of two from the Senate, and three from the House, be appointed by the President of the Senate and the Speaker of the Assembly, to proceed to the State Prison and investigate the affairs of that institution, *Provided* that said Committee receive but two dollars each for every twenty miles travel as their mileage.

Adopted.

Mr. Walkup offered the following amendment to the substitute:

After the word "appointed," insert "from the Standing Committee."

Accepted.

Question was then put upon the adoption of the resolution.

Resolution lost.

Mr. Shaw, Chairman of Committee on Claims, made the following report:

*Mr. President:*

The Committee on Claims, to whom was referred a resolution granting eight hundred and thirty-eight dollars from the Contingent fund of the Senate, to Wm. A. Cornwall, cannot recommend that the same be passed, but report the same back with the accompanying documents, for the consideration of the Senate, and ask to be discharged from the further consideration thereof.

WM. J. SHAW,  
Chairman.

Report received, committee discharged, and on motion of Mr. Fiske, the whole subject matter indefinitely postponed.

On motion of Mr. Taliaferro, the Senate adjourned.

Approved, January 17th, 1857.

R. M. ANDERSON,  
President Senate.

Attest:  
GEO. S. EVANS,  
Secretary Senate.

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## IN SENATE.

SATURDAY, January 17, 1857.

Senate met pursuant to adjournment.

Roll called.

The following members absent:

Messrs. Burnett, Bell, Crandall, Ferguson of Sacramento and Westmoreland.

Mr. Dosh asked leave of absence for Mr. De La Guerra for an indefinite period; to which Mr. Merritt objected, and Mr. Dosh named five days; which was granted.

On motion of Mr. Shaw, leave of absence was granted Mr. Tilford for the day.

Journals of yesterday read and approved.

Mr. Ashley offered the following resolution:

*Resolved*, That the Assembly be requested to return the concurrent resolution relating to printing Controller's Treasurer's, Attorney General's, and Secretary of State's Reports, which was reported to Assembly yesterday by mistake as concurred in.

Adopted.

Mr. Cosby made the following Report :

*Mr. President :*

Your Committee to whom was referred Assembly bill No. 9, an Act to Legalize and Confirm the Election of certain Officers, have had the same under consideration, and beg leave to report the same back without amendments and recommend its passage.

JOHN D. COSBY,  
Of Committee.

Rule suspended, bill read a third time and passed.

Mr. Ashley, Chairman of the Joint Committee on Printing, made the following Report :

*To the Senate and Assembly :*

The Joint Committee on Printing have considered the resolution to print the Controller's Report, &c., and find that as the Controller's Report comprises the same information, to a great extent, as the Treasurer's, a smaller number of the latter will be sufficient. The Attorney General's Report appears important, and since it is not very lengthy, and a small additional number would cause no great expense, we propose to slightly increase the number to be printed.

The Report of the State Librarian we believe it not necessary to print. It is mostly composed of tabular statements, which would not be read, and would be of no statistical value warranting publication at present.

We propose a substitute to the original resolution, and hope the same will pass, since the saving will amount to several hundred dollars.

D. R. ASHLEY,  
Chairman of Senate Committee.  
SWEEZY,  
Chairman of Assembly Committee.

The following is the substitute :

*Resolved.* The Assembly concurring, That 2,500 copies of the Controller's Report, 500 copies of the Treasurer's Report, and 500 copies of the Attorney General's Report be printed, for the use of the Senate and Assembly.

Report accepted, and the substitute adopted.

Mr. Dosh, Chairman of the Joint Committee to examine and ascertain the amount of coin and treasure in the State Treasury, made the following Report :

*To the Honorable the Senate and Assembly :*

The Joint Committee of the Senate and Assembly, appointed to examine and ascertain the amount of coin and treasure now in the State Treasury, and subject to the order of the Treasurer of State, submit the following report :

The committee, by actual count, have ascertained that there is now in the State

Treasury in gold and silver coin (\$120,937 50) one hundred and twenty thousand nine hundred and thirty-seven dollars and fifty cents, and (\$9,230 45) nine thousand two hundred and thirty dollars and forty-five cents in gold dust. The committee have extended their labor and inquiry into a full examination of the business of the Treasurer, and the condition of the funds in his department, and herewith report tabular statements from the Treasurer, containing the aggregate amount of receipts and expenditures of the State Treasury from the 1st of January, 1856, to the 13th of January, 1857, inclusive. Also a statement of the receipts and expenditures from the 1st day of January, 1857, to the 13th of January. These statements show that within the above mentioned dates (\$1,322,591 89) one million three hundred and twenty-two thousand five hundred and nine-one dollars and eighty-nine cents have been received into the Treasury, while the expenditures during the same period amount to (\$1,192,148 24) one million one hundred and ninety-two thousand one hundred and forty-eight dollars and twenty-four cents. The statement exhibits a balance in the Treasury the 1st day of January, 1857, of (\$202,605 25) two hundred and two thousand six hundred and five dollars and twenty-five cents, and that (167,265 27) one hundred and seven thousand two hundred and sixty-five dollars and twenty-seven cents has since been received, making the sum total of (\$309,870 50) three hundred and nine thousand eight hundred and seventy dollars and fifty cents in the Treasury up to January 13th, 1857. From this sum there has been paid to the School Fund (\$31,272 45) thirty-one thousand two hundred and seventy-two dollars and forty-five cents, and to the General Fund (\$24,490 40) twenty-four thousand four hundred and ninety dollars and forty cents, for Controller's Warrants redeemed, also (\$124,000) one hundred and twenty-four thousand dollars to provide for the payment of the interest due in July, 1857—leaving a balance in the Treasury on the 13th day of January, 1857, as above stated, in money and gold dust, of (\$130,107 65) one hundred and thirty thousand one hundred and seven dollars and sixty-five cents.

In the Annual Message of the Governor, transmitted to the present Legislature, it is stated that on the first day of January, 1857, there was on hand a balance in favor of the Treasury of (\$212,404.27) two hundred and twelve thousand four hundred and four dollars and twenty-seven cents. The present tabular statement shows that in fact the balance in favor of the Treasury on the first of January, 1857, was (\$202,605.28) two hundred and two thousand six hundred and five dollars and twenty-eight cents. This incongruity is accounted for by the neglect of the Clerk in his Report to the Governor to charge (\$9,000) nine thousand dollars, for State Prison Bonds redeemed, and (\$798.99) seven hundred and ninety-eight dollars and ninety-nine cents, for a School Warrant on the School Fund paid to Mariposa county. These amounts deducted from the aggregate sum contained in the Message corresponds with the statements herewith reported, and agrees with the estimates exhibiting (\$130,167.65) to be the actual amount on hand in the Treasury on the 1st day of January, 1857.

The Committee would respectfully call attention to the existence of a suit now pending in the Sixth Judicial District Court, wherein the plaintiff, Meyer & Co., have sued an injunction to restrain the State Treasurer from paying out any moneys in his hands, except under the mandate of the Court. The Committee is informed that said suit is being prosecuted by Attorney-General Wallace, to secure the payment of salaries of District Judges prior to the first of January, 1857. An opinion of the Attorney-General has been submitted to the Committee advising the Treasurer not to pay any money out of the Treasury under any circumstances, except by order of the Legislature or the mandate of the Supreme Court. To these causes we must ascribe the present difficulty in obtaining moneys upon Controller's Warrants, and these causes are assigned by the Treasurer as a reason for declining to pay out any funds now in his hands. The Committee



would recommend immediate attention to this subject, and suggest that some means be devised for the removal of said injunction, and relief of the funds now in the Treasury.

It is a matter of surprise, however, that so large a sum as \$130,167 should be effectually tied up, and the whole financial operations of the Government checked, because of a suit at law, when the entire amount involved is only some twelve thousand dollars.

As it has incidentally come to our knowledge, in the discharge of these duties, that the Treasurer has already taken from the general fund \$124,000 to provide for the interest due in July next, it has occurred to us, as a matter of extreme importance, that a law be immediately enacted prescribing the duty of this officer in like cases, and defining the time when and the manner in which he shall transmit the funds necessary to meet the accruing interest debt of the State. This suggestion is made because of the great difficulty heretofore experienced, and the discredit that has been thrown upon our national character.

That the Treasurer should make timely provisions to secure the payment of the interest debt to become due in July next is creditable to his zeal to sustain our national integrity abroad, but affords profound reasons for regret that he should be induced to deprive the State of so vast a sum for a period of at least four months, and impose an unnecessary expense for exchanges, at a time of great financial embarrassment.

A crisis has arrived in our financial history, when the question of repudiation and the maintenance of our character for honor and respect in the rank of nations, must necessarily be determined by the action of the present Legislature; and the timely provisions made by the Treasurer to meet the demands of foreign creditors, will, doubtless, tend to suspend public opinion, and give opportunity for wholesome and wise legislation.

We submit herewith the statements of the Treasurer, and earnestly repeat the above recommendations.

G. D. HALL,  
Chairman Assembly Committee.

S. H. DOSH,  
Chairman Senate Committee.

Report accepted.

Mr. McCallum made the following majority report:

*Mr. President:*

The undersigned, a majority of the committee appointed on behalf of the Senate, to act with the Joint Committee of the Senate and Assembly, to examine and ascertain the amount of treasure in the State Treasury, report as follows:

The Joint Committee, by actual count, found in the State Treasury—including all the funds—

In gold and silver coin, - - - - -	\$120,937 50
In gold dust, - - - - -	9,230 45
Whole amount, - - - - -	<u>\$130,167 95</u>

The above included all the duties of said committee. The undersigned have no knowledge of the facts specified by the minority of the Senate Committee herein, and do not agree to the inferences and opinions therein expressed.

J. G. McCALLUM,  
JOSEPH WALKUP.

Report accepted.

Mr. Walkup made the following report:

*Mr. President :*

The undersigned, to whom was referred Assembly bill No. 5, An Act concerning County Officers, in the county of Placer, report the same to the Senate without amendment, and recommend its passage.

JOS. WALKUP.

Report accepted.

Mr. Merritt offered the following Resolution:

*Resolved*, That the State Treasurer be, and is hereby requested, to inform the Senate, at as early a period as practicable—

1st. What security he has taken from the Pacific Express Company for the faithful and prompt payment of the July interest (1854) on Civil Bonds of the State of California.

2d. What are the terms of the contract with said Pacific Express Company, viz: what per centage or premium, if any, said company is to receive for transmission of the interest aforesaid to New York.

3d. What officers of said Pacific Express Company, contracted on behalf of said company

4th. Were any of the said officers of said Pacific Express Company employed in, or in any way connected with or employed by the State Treasurer at the time of, or previous to, making of said contract; and if so, who are said officers, and what was the nature of their connection with or employment in the State Treasurer's office.

Adopted.

Mr. Waite offered the following Resolution:

*Resolved*, That the Governor of the State be requested to inform the Senate whether the Board of Examiners have counted the moneys in the Treasury once a month, in accordance with the "Act for the better protection of the State Treasury;" whether a monthly statement of the moneys found by actual count, has been filed in the office of Secretary of State, and whether such statement has been published according to the above named act; and if not, why the provisions of said Act in the particulars enumerated, have not been complied with.

Adopted.

On motion of Mr. Walkup, Assembly Bill No. 5, an Act concerning County Officers in the County of Placer, was taken up.

Read third time and passed.

The following Report was received from the Engrossing Committee:

*Mr. President :*

The Committee on Engrossed Bills have examined Senate bill No. 1<sup>st</sup>, entitled an Act to further extend the Act concerning Corporations, passed April 22d, 1850; and also Senate bill No. 15, entitled an Act fixing the time of holding the several Courts authorized to be held by the County Judge of Tehama County, and find the same correctly engrossed.

A. R. MELONY,  
Chairman.

Senate bill No. 15 was then read a third time.

Mr. Cosby moved the recommitment of the bill, with instructions to strike out that portion of the bill authorizing married women to become corporators; which was lost.

Question being on the final passage of the bill, was taken, and the bill passed.

The following message was received from the Assembly :

*Mr. President .*

I am directed to inform the Senate that the Assembly have, on yesterday, passed Assembly bill No. 19, entitled an Act to fix the Compensation of the District Attorney of Contra Costa County.

Also Assembly bill No. 16, entitled an Act to fix the Salary of the County Judge of the County of Contra Costa, and to repeal in part an Act to fix the Compensation of County Judge and Associate Justices of the Court of Sessions, passed May 17th, 1853.

The Assembly have also concurred in Senate resolution appointing a Committee of three from each House to examine and ascertain in regard to the revenue received in the State Treasurer's office, and have appointed Messrs. Irwin, Wood and Sheppard, Committee on the part of the House.

Also, have returned Assembly resolution relative to printing certain reports of State officers at the request of the Senate.

W. CAMPBELL,  
Clerk of Assembly.

January 17th, 1857.

Assembly bill No. 19, an Act to fix the Compensation of the District Attorney of Contra Costa County.

Read a first time.

Assembly bill No. 16, an Act to fix the Salary of the County Judge of the County of Contra Costa, and to repeal, in part, an Act to fix the Compensation of County Judge and Associate Justices of the Court of Sessions, passed May 17th, 1853.

Read a first time, rule suspended, bill read second time ; rule further suspended, bill considered as in Committee of the whole, reported back to the Senate without amendments.

The bill was then read a third time and passed.

Mr. Carpenter gave notice that at an early day he will introduce an Act amendatory of an Act entitled an Act to provide for the Protection of Foreigners, and to define their Liabilities and Privileges, passed March 30th, 1853.

Mr. Fiske offered the following resolution :

*Resolved*, That the Secretary of the Senate be requested to notify the Trustees of the Insane Asylum at Stockton to report to this body the condition of said Asylum, and the reasons why said report has not previously been made, in accordance with law.

Adopted.

Mr. Taliaferro moved that when the Senate do adjourn it adjourn until Tuesday next, the 20th inst.

Upon which the ayes and noes were called for by Messrs. Fiske, Coffroth and Merritt, with the following result :

AYES.

Messrs. Carpenter, Cosby, Johnson of El Dorado, McGee, and Taliaferro—5.

NOES.

Messrs. Ashley, Burnett, Bynum, Chase, Coffroth, Dosh, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, McCallum, Melony, Merritt, Mesick, Shaw, Soule, Waite, and Walkup—18.

So the motion was lost.

Mr. Taliaferro moved that the Senate adjourn.

Upon which the ayes and noes were called for by Messrs. Coffroth, Cosby and Waite, with the following result :

AYES.

Messrs. Burnett, Bynum, Carpenter, Coffroth, Ferguson of Sierra, Goodwin, McGee, Mesick, Soule, Waite, and Walkup—11.



## NOES.

Messrs. Ashley, Chase, Cosby, Dosh, Fiske, Johnson of Sacramento, Johnson of El Dorado, McCallum, Melony, Merritt, and Taliaferro—11.

So the motion was lost.

Mr. Coffroth moved a call of the Senate.

Lost.

Mr Coffroth then moved to adjourn.

Upon which the ayes and noes were called for by Messrs. Coffroth, Goodwin and Soule, with the following result :

## AYES.

Messrs. Burnett, Bynum, Carpenter, Chase, Coffroth, Ferguson of Sierra, Goodwin, Mesick, Soule—9.

## NOES.

Messrs. Ashley, Cosby, Dosh, Fiske, Johnson of Sacramento, Johnson of El Dorado, McCallum, McGee, Melony, Merritt, Shaw, Taliaferro, Waite, Walkup—14.

So the motion was lost.

Mr. Shaw, Chairman of the Committee on Claims, made the following Report:

*Mr. President :*

The Committee on Claims, to whom was referred a Resolution to allow Mr. Bausman and Mr. Lee, for one week's services, as Secretary and Assistant Secretary of the Senate, report that they have considered the subject, and recommend the passage of the Resolution, after the same is amended, in manner herewith submitted, the time mentioned in the amendment being, as your Committee are advised, the full period of service performed by the gentlemen named.

W. J. SHAW, Chairman.

Amend line 5 of the Resolution by striking out the words "one week," and insert *two days*.

Report of Committee accepted, amendment adopted, and Resolution as amended adopted.

On motion of Mr. Dosh the Senate adjourned.

Approved January 21st, 1857.

R. M. ANDERSON,  
President Senate.

Attest:

GEORGE S. EVANS, Secretary Senate.

# IN SENATE.

MONDAY, January 19, 1857.

Senate met pursuant to adjournment.

Roll called.

The following members were absent:

Messrs. Bynum, Bell, Coffroth, Cosby, Crandall, Chase, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Goodwin, Johnson of El Dorado, McCallum, McGee, Mesick, Soule, Sullivan, Tilford, Taliaferro, Westmoreland and Wilson.

There being no quorum present, on motion of Mr. Shaw the Senate adjourned.

R. M. ANDERSON,  
President Senate.

Attest:

GEO. S. EVANS, Secretary Senate.

# IN SENATE.

TUESDAY, January 20th, 1857.

Senate met pursuant to adjournment.

President in the Chair.

Roll called, the following Senators absent:

Messrs. Bynum, Cosby, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Goodwin, Mandeville, McCallum, McGee, Merritt, Mesick, Norman, Sullivan, Tilford, Taliaferro, Westmoreland and Wilson.

There being no quorum present, on motion of Mr. Shaw the Senate adjourned.

R. M. ANDERSON,  
President Senate.

Attest:

GEO. S. EVANS,  
Secretary Senate.

## IN SENATE.

WEDNESDAY, January 21st, 1857.

Senate met pursuant to adjournment.

President in the chair.

Roll called, and the following members were absent :

Messrs. Cosby, Tilford, and Ferguson of Sierra.

Journals of Saturday, January 17th; Monday, January 19th, and Tuesday, January 20th, were read and severally approved.

Mr. Shaw in the chair.

Mr. Soule asked leave of absence for Mr. Tilford for three days, on account of sickness.

Granted.

Mr. Mandeville offered the following resolution :

*Resolved*, That Messrs. Mandeville, Dosh, Norman, and all other Senators who were absent on Tuesday, January 20th, 1857. be excused for not being present.

Mr. Coffroth offered the following amendment :

Insert after the word "on" in the third line, the words "Monday, 19th, and."

Amendment accepted.

Question being upon the passage of the resolution as amended, was then put and the resolution adopted.

Mr. Fiske offered a petition of citizens of the town of El Dorado, praying for a repeal of their charter, which was received, and on motion of Mr. Fiske, referred to the El Dorado Delegation.

The following message was received from his Excellency the Governor :

EXECUTIVE DEPARTMENT,  
SACRAMENTO, January 17th, 1857. }

*To the Senate of California :*

I have this day approved an Act entitled an Act to fix the Terms of the District Court of San Mateo county.

J. NEELY JOHNSON.

The following message was received from the Assembly :

*Mr. President :*

I am directed to inform the Senate that the Assembly on yesterday passed Assembly bill No. 3, entitled an Act to amend an Act regulating Proceedings in Civil Cases, passed April 29th, 1851.

Also, Assembly Joint Resolution No. 1, in relation to a uniform Rate of Postage throughout the United States.

Also, Joint Resolution No. 2, relative to Mail Routes in California.

W. CAMPBELL,  
Clerk Assembly.

January 21st, 1857.

Assembly bill No. 3, An Act to amend an Act to regulate proceedings in Civil Cases, passed April 29th, 1851, being first in order, was taken up, read first time—rule suspended ; read second time, and on motion of Mr. Mandeville, referred to Judiciary Committee.

Assembly Joint Resolution No. 1, in relation to a uniform Rate of Postage throughout the United States, was then taken up, read first time—rule suspended ; read a second time, and on motion of Mr. Mandeville, referred to Committee on Federal Relations.

Assembly Joint Resolution No. 2, relative to Mail Routes in California, was taken up, read first time, rule suspended ; read a second time, and, on motion of Mr. Mandeville, referred to Committee on Federal Relations.



Mr. Josiah Johnson introduced a bill entitled an Act to amend an Act entitled an Act to provide for the sale of Swamp and Overflowed Lands belonging to the State, approved April 28th, 1855; which was read first time, rule suspended; read a second time, and, on motion of Mr. Mandeville, referred to Committee on Public Lands.

Mr. Burnett introduced a bill entitled an Act amendatory of and supplementary to an Act to create the office of State Printer, and to define the duties and compensation thereof, and to provide for the time and manner of election, passed May 1st, 1854; which was read first time, rule suspended; read a second time, and, on motion of Mr. Mandeville, referred to Committee on Printing.

Mr. Carpenter introduced a Bill for an Act to amend an act entitled an "Act to regulate proceedings in civil cases in the Courts of Justice of this State," passed April 29th, A. D. 1851.

Read first time, rules suspended, read second time and referred to Judiciary Committee.

Mr. Norman gave notice that at an early day he will introduce a Bill for an Act to amend an act entitled an "Act concerning Corporations, passed April 22d, 1850."

Also, an Act to amend an act entitled an "Act to provide for the formation of Corporations for certain purposes," approved April 14th, 1853.

Mr. Taliaferro gave notice that on to morrow or some future day, he will introduce a Bill to amend Section sixth of an 'Act regulating the duties of Harbor Master of the port of San Francisco,' passed May 1st, 1852.

Mr. Ashley introduced a Bill for an Act concerning the Receipts and Expenditures of the State.

Read a first and second time, and referred to the Committee on Public Expenditures.

Mr. Ashley introduced a bill, entitled "An Act supplementary to an Act, concerning Persons in Custody, under Sentence of Imprisonment, passed April 22d, 1850, which was read first time—rule suspended; read a second time, and on motion of Mr. Ashley, referred to the Committee on Judiciary.

Mr. Coffroth offered the following resolution:

*Resolved*, That the Controller of State be requested to inform the Senate the amount of the warrants drawn upon the State Treasury, from the period of the organization of the State Government, until the close of the first session of the Legislature.

Mr. Walkup moved to amend, by striking out all after the words "State Government," and insert "in consequence of the action of the first session of the Legislature.

Amendment accepted, and resolution as amended adopted.

Mr. Merritt offered the following resolution:

*Resolved*, That the Treasurer of State be, and is hereby requested to inform the Senate, at as early a period as practicable, whether he has instituted suit against Messrs. Palmer, Cook & Co., to recover the money paid them by him, to pay the July interest, 1856, on the Bonds of the State of California, if so, when was said suit instituted—in what Court, and was the same commenced by attachment—and is there a probability of the State ever recovering the money paid to Palmer, Cook & Co., as aforesaid.

Adopted.

Mr. Norman gave notice that, at an early day, he will introduce a bill to amend an Act to protect owners of growing crops, buildings, and other improvements in the mining districts of this State, approved April 25th, 1855.

Mr. Dosh offered the following resolution:

*Resolved*, That the Sergeant-at-Arms be requested to report to the Senate the cause of the unusual delay in the distribution among the members of the full number of copies of the Governor's Message to which they are entitled.

Adopted.

Mr. Bell gave notice that, at an early day, he will introduce a bill for the relief of Jotham S. Marston, late Treasurer of Alameda County.

Mr. Chase gave notice that, at an early day, he will introduce a bill to amend an Act to provide revenue for the support of the government of this State, passed May 15th, 1854.

Also to amend an Act to provide for the support of government of this State, passed May 15th, 1854, approved 27th April, 1855.

Also an Act to amend an Act to incorporate the City of Nevada, approved 19th April, 1856.

Mr. Coffroth rose to a question of privilege: Alluded to statements affecting the Attorney General in the minority report of the Special Joint Committee to examine and ascertain the amount of coin in the State Treasury; read a communication from that officer upon proceedings relating to the discharge of his official duties, and defended the said officer.

Mr. Dosh introduced a Bill for an Act to fix the compensation of the County Judge and Supervisors of the county of Tehama.

Read first time, rules suspended, read a second time and, on motion of Mr. Dosh, referred to Judiciary Committee.

Assembly Bill No. 19, was taken up and read a second time.

On motion of Mr. Burnett, the Senate adjourned.

R. M. ANDERSON,  
President Senate.

Attest:  
GEO. S. EVANS,  
Secretary Senate.

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## IN SENATE.

THURSDAY, January 22, 1857.

Senate met pursuant to adjournment.

President *pro tem.*, in the Chair.

Roll called.

Journals of yesterday read and approved.

### PETITIONS.

Mr. Tilford presented the petition of sundry citizens of San Francisco, praying the passage of an Act to exempt Whale ships from payment of Harbor Dues, in the port of San Francisco.

Read and referred to Committee on Commerce and Navigation.

Mr. Shaw presented the petition of the officers of the Mechanic's Institute of San Francisco.

Read and referred to Committee on Judiciary.

Mr. Mandeville presented the petition of John S. Clark, praying for relief.

Read and referred to the Committee on Claims.

### REPORTS OF COMMITTEES.

Mr. Tilford, Chairman of the Judiciary Committee, made the following report:

*Mr. President :*

The Judiciary Committee, to whom was referred Senate bill No. 6, for an Act entitled an Act to regulate the Interest of Money, passed March 13th, 1850, have had the same under consideration, and recommend its indefinite postponement.

The Committee have also had under advisement Senate bill No. 4, for An Act for the better protection of Mining Interests, and recommend its passage.

F. TILFORD,

Chairman.

Report accepted.

On motion of Mr. Bell, Senate bill No. 6, an Act to amend an Act entitled An Act, to regulate the Interest of Money, passed March 13th, 1850, was made the special order for Thursday, January 29th, 1857, at 12 M.

Senate bill No. 4, was placed on general file.

Mr. Coffroth, Chairman of the Committee on Public Expenditures, made the following report:

*Mr. President :*

The Committee on Public Lands, to whom was referred Senate bill No. 19, An Act concerning the Receipts and the Expenditures of the State, have had the same under consideration, and report it back without amendment, and recommend its passage.

Report accepted, and bill placed on general file.

Mr. Merritt, Chairman of Committee on Federal Relations, made the following report:

*Mr. President :*

The Committee on Federal Relations, to whom was referred Assembly Joint Resolution No. 1, in relation to a uniform Rate of Postage throughout the United States, and Assembly Joint Resolution No 2, relative to Mail Routes in California, beg leave to report the same back to the Senate without amendment, and recommend their passage.

All of which, is respectfully submitted.

MERRITT,

Chairman.

Report accepted, and the Joint Resolutions placed on general file.

The following report was received from the El Dorado Delegation :

*Mr. President:*

The El Dorado Delegation, to whom was referred the petition of the citizens



of the village of El Dorado, for the repeal of their charter, would respectfully report favorably to said petition, and recommend the passage of the accompanying bill.

HENRY M. FISKE,  
S. M. JOHNSON,  
G. J. CARPENTER,  
J. G. McCALLUM.

SENATE CHAMBER, Jan. 22d, 1857.

Report accepted.

Bill read first time—rule suspended; read second time, and ordered to be engrossed.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate, that the Assembly on yesterday, passed Assembly bill No. 40, entitled An Act concerning the office of State Treasurer.

Also, Assembly bill No. 12, An Act to authorize the State Treasurer to issue duplicate School Land warrants to Milton Wolfskill.

W. CAMPBELL,  
Clerk Assembly.

January 22d, 1857.

Assembly bill No. 40, An Act concerning the office of State Treasurer, was taken up, bill read first time—rule suspended and read second time.

On motion, the bill was considered as in Committee of the Whole, after some time spent in considering the bill, the committee reported the bill and amendments to the Senate, which were considered, and the amendments rejected.

Mr. Ashley moved to strike out the repealing clause, section 3.

Carried.

Mr. Merritt offered the following amendment:

Amend section first as follows:—after the words “as Treasurer,” insert “or which are under his control as State Treasurer.”

Adopted.

Mr. Burnett moved to amend, by adding to end of first section “or Military Fund.”

Lost.

The bill as amended was then read a third time and passed.

Assembly bill No. 12, An Act to authorize the State Treasurer to issue duplicate School Land warrants to Milton Wolfskill.

Read first time—rule suspended; read second time, and referred to Committee on Public Lands.

Mr. Bell introduced a bill for An Act for the relief of Jotham S. Marston, late Treasurer of Alameda county.

Read first time—rule suspended; read second time, and referred to Committee on Claims.

Mr. Norman introduced a bill for an Act to amend an Act, entitled An Act, to provide for the formation of Corporations, for certain purposes, approved April 14th, 1853.

Read first time—Rule suspended; read second time.

Mr. Bell moved that it be referred to Committee on Corporations.

Lost.

Mr. Norman moved that it be referred to Committee on Commerce and Navigation.

Carried—and bill so referred.

Mr. Norman introduced a bill for an an Act to amend An Act concerning Corporations, passed April 22d, 1850.

Read first time—rule suspended; read second time, and referred to Committee on Commerce and Navigation.

Mr. Tilford introduced a bill entitled, An act to amend section sixth of an Act, entitled an Act regulating the Duties of Harbor Masters of the port of San Francisco, passed May 1st, 1852.

Bill read first time—rule suspended; read a second time, and on motion of Mr. Tilford, referred to the Committee on Commerce and Navigation.

Mr. Coffroth gave notice, that at an early day, he will introduce a bill to prescribe the manner of paying members of the Legislature.

Mr. Shaw introduced a bill entitled, An Act concerning Taxes and Assessments and Sales of Property made therefor.

Bill read first time—rule suspended; read a second time, and on motion of Mr. Shaw, referred to the Committee on Finance.

Mr. Walkup gave notice, that at an early day, he will introduce a bill amendatory of, and supplementary to An Act to authorize the Board of Supervisors of Placer County to levy a special Tax.

Mr. Carpenter offered the following resolution:

*Resolved*, That the Sergeant-at-Arms be, and he is hereby, required to inform the Senate, on to-morrow, of the number and the names of all persons other than the elected officers and members of the Senate, now in the employ thereof as Clerks, Porters, Pages, or in any other capacity, and who are looking to the Senate or to the Legislature for compensation for their services; and specifying the kind of employment in which they are engaged.

Adopted.

#### GENERAL FILE.

The following communication was received from the State Treasurer:

STATE OF CALIFORNIA, TREASURY DEPARTMENT, }  
Sacramento, January 22, 1857. }

*To the Honorable the Senate of California:*

GENTLEMEN—

I have the honor of receiving a resolution passed by your honorable body, requesting me to furnish a statement relative to the moneys placed in the hands of Palmer, Cook & Co., for the payment of the July interest of 1856. Suit was brought against the parties, on or about the 8th instant, before the District Court of this county, by Edwards & English. I am informed by those gentlemen, that a suit by attachment could not be commenced. I have every reason to believe that the bonds are sufficient to meet the demand against Palmer, Cook & Co., and that the funds will be duly recovered.

Very respectfully,

Your obedient servant,

HENRY BATES,  
State Treasurer.

Mr. Shaw moved that the communication be returned to the State Treasurer, and that he be required to reply specifically.

Mr. Shaw, by request of Mr. Coffroth, withdrew his motion; upon which.

Mr. Coffroth moved its reference to the Committee on Public Expenditures, with instructions to report speedily.

Mr. Fiske moved to amend, by instructing the Committee to report to-morrow.

Amendment accepted, and motion adopted as amended.

So the communication was referred to the Committee on Public Expenditures, with instructions to report to-morrow.

The following communication was received from the Sergeant-at-Arms of the Senate:

SACRAMENTO, January 22, 1857.

*Hon. R. M. ANDERSON, President of the Senate:*

DEAR SIR—

I have received a copy of the resolution passed by the Senate on Wednesday, inquiring of me the cause of the unusual delay of the distribution among the members, of the Governor's Message

In reply, I beg leave to submit the following explanation. I received the messages on Saturday afternoon, from the State Printer, after the Senate had adjourned. On Monday and Tuesday, no sessions of your honorable body were held; but early on Wednesday (yesterday) morning, I distributed on each member's desk a copy of the message. The balance are in my hands, subject to the order of Senators.

Yours, respectfully,

ALEX. HUNTER,  
Sergeant-at-Arms.

Mr. Bell offered, by leave, the following resolution:

*Resolved*, That the Treasurer of State be requested to furnish the Senate with a certified copy of the bond, if any be executed, by the Pacific Express Company, for the safe carriage and payment of the interest to become due on the bonds of the State, payable in July, 1857.

Adopted.

Mr. Johnson, of El Dorado, by leave, gave notice that he will, at an early day, introduce a bill concerning Roads and Highways.

Mr. Merritt, by leave, offered the following resolution:

*Resolved*, By the Senate, the Assembly concurring, that the Committee on Public Expenditures, of the Senate and Assembly, be constituted a Joint Committee to examine the accounts of the Controller and Treasurer of State; and that it shall be their duty, at least once a week, and as frequently as they may desire, and at any time, to count the money in the State Treasury, and report their counting at least once a week, to both Houses.



## GENERAL FILE.

Assembly Bill No. 19, An Act to fix the compensation of the District Attorney of Contra Costa County, was taken from the file, read, and,

On motion of Mr. Mandeville, the bill was placed upon file again.

Senate Bill No. 4, A Bill for an Act for the better protection of Mining Interests, was taken from the file, read, and ordered to be engrossed.

Assembly Joint Resolution No. 2, relative to Mail Routes in California, was read a third time and passed.

Assembly Joint Resolution No. 1, in relation to a uniform rate of Postage throughout the United States, was taken up and read.

Mr. Fiske moved its indefinite postponement.

Lost.

On motion of Mr. McCallum, the resolution was passed.

Senate Bill No. 19, was taken from the file and read.

Mr. Bell moved to adjourn.

Lost.

On motion of Mr. Coffroth, the Senate Bill No. 19 was considered engrossed, read a third time, and passed.

On motion of Mr. Johnson, of El Dorado, the Senate adjourned.

R. M. ANDERSON,  
President Senate.

Attest:

GEORGE S. EVANS, Secretary Senate

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IN SENATE.

FRIDAY, January 23, 1857.

Senate met pursuant to adjournment.

Roll called.

Journals of yesterday read and approved.

## REPORTS OF COMMITTEES.

Mr. Sullivan, one of the Committee on Engrossed Bills, made the following report:

*Mr. President :*

The Committee on Engrossed Bills have examined Senate bill No. 4, entitled an Act for the better Protection of Mining Interest.

Also, Senate bill No. 19, entitled an Act concerning the Receipts and the Expenditures of the State.

Also, Senate bill No. 22, entitled an Act to repeal an Act to Incorporate the town of El Dorado, approved April 16th, 1855, and find each of said bills correctly engrossed.

E. L. SULLIVAN,  
Of Committee.

Mr. Tilford, Chairman of the Judiciary Committee, made the following communication:

*Mr. President :*

The Judiciary Committee respectfully report that they are desirous of procuring a suitable room where they may meet for the transaction of committee business: they therefore request authority from the Senate to rent a room for the purpose named.

F. TILFORD,  
Chairman.

Leave was granted the Committee on Public Expenditures to extend the time of making their report upon the Treasury until to-morrow.

Mr. Walkup introduced a bill for an Act amendatory of and supplementary to an Act entitled an Act to authorize the Board of Supervisors of Placer county to levy a Special Tax, approved March 11, 1856, was read first time; rule suspended. read second time, and referred to Placer Delegation.

Mr. Bell introduced a bill for an Act for the relief of Francis R. Crussell, which was read first time, rule suspended, read second time, and referred to Committee on Claims.

Mr. Shaw introduced a bill for an Act concerning the testimony of children and other than white persons, which was read first time, rule suspended, read second time, and referred to Judiciary Committee.

Mr. Coffroth, Chairman of the Committee on Public Lands, made the following report:

*Mr. President :*

The Committee on Public Lands, to whom was referred Senate Bill No. 16,

amendatory of the Act for the sale of the Swamp and Overflowed Lands, report the same back, with amendments, and respectfully recommend its passage.

JAMES W. COFFROTH,  
Chairman.

Amend section 1, by striking out all after the word "lands." in line six, and insert "situated within ten miles of the city of San Francisco or San Diego, or within five miles of the city of Oakland, or within such distance from the threads or centre of any river as will include six rods of the alluvial formation of the banks of all rivers, which reservation is made for common landings, roads, levees and other public purposes, and all trees standing upon said distance upon banks of rivers, are reserved for the building of roads, levees, and other public purposes."

Second amendment.

Strike out section third.

Report accepted, and on motion of Mr. Coffroth, the bill was made the special order of the day for half past 12 o'clock, M.

Mr. Tilford offered the following resolution :

*Resolved*, That the Sergeant-at-Arms be authorized to obtain a room for the Judiciary Committee.

Adopted.

Mr. Bell offered the following resolution :

*Resolved*, That the Sergeant-at-Arms of the Senate be directed to furnish the Reporters who have desks within this body, with two copies each of all the bills, reports and other printed matter provided for the Senators.

Adopted.

Mr. Crandall offered the following resolution :

*Resolved*, That the Senate employ an official reporter, whose duty it shall be to keep a correct journal of the proceedings of the Senate, and also a correct report of all the important debates; provided that said reports shall be published in one or more of the daily papers of this city, free of charge to the State.

*Resolved*, That William Coates be and is hereby appointed official reporter to the Senate.

Question being upon the adoption of the resolution, upon which the ayes and noes were demanded by Messrs. McCallum, Norman and Dosh, and taken with the following result :

Those voting in the affirmative were

Messrs. Ashley, Burnett, Bynum, Bell, Coffroth, Coshby, Crandall, Chase, De la Guerra, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Mandeville, Mesick, Shaw, Soule, Tilford, Taliaferro—21.

Those voting in the negative were

Messrs. Carpenter, Dosh, McCallum, McGee, Merritt, Norman, Sullivan, Wilson and Walkup—9.

So the resolution was adopted.

Mr Ferguson, of Sacramento gave notice that, at an early day, he will introduce a bill authorizing certain parties to erect a bridge across the Sacramento River between the City of Sacramento and the town of Washington.

Mr. Walkup in the Chair.

Mr. Taliaferro gave notice that, at an early day, he will introduce a bill to remunerate J. W. Denver for his services as Commissioner of the California War Debt.

#### GENERAL FILE.

Assembly bill No. 19, an Act to fix the Compensation of the District Attorney of Contra Costa County, was taken from the file, and laid on the table.

Senate bill No. 4, a Bill for an Act for the better protection of Mining Interest, was read a third time, and, on motion of Mr. Mandeville, was made the special order of the day for Tuesday next, at 12 M.

The hour for the consideration of the special order of the day having arrived, on motion of Mr. Coffroth, the bill and amendments reported by the Committee on Public Lands was considered in Committee of the Whole. After some time so spent, the Committee rose, and reported the bill and amendments back.

The question being upon adopting the amendments, was taken, and carried.

On motion of Mr. Shaw, the words "thread or," in section first, were stricken out.

On motion of Mr. Coffroth, the words "of six rods" were inserted in section first after the words "said distance."

Mr. Ashley offered the following amendment, to come in at the end of section first:

"The land situated within ten miles of the City of San Francisco or San Diego, or within five miles of the City of Oakland, and the said land reserved on the banks of rivers, are hereby excluded from all provisions of law authorizing sales under this act."



Adopted, and bill ordered engrossed.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate, that the Assembly, on yesterday, passed Senate bill No. 2, an act to fix the time of holding the terms of the District Court of the Ninth Judicial District of this State.

Also Assembly bill 26, an Act supplementary to an Act entitled an Act to separate the office of Sheriff in the County of Yuba, approved April 27, 1855.

Also, have passed Senate Bill No. 15, an Act fixing the time of holding the several Courts authorized to be held by the County Judge of Tehama county, with amendments to the Bill and title of the Bill, and ask the concurrence of the Senate.

The Assembly have passed a Concurrent Resolution relative to the adjournment of the Legislature *sine die*, and ask the concurrence of the Senate.

Respectfully,

W. CAMPBELL,  
Clerk Assembly.

Senate Bill No. 15, "An Act fixing the time of holding the several Courts authorized to be held by the County Judge of Tehama county," reported from the Senate with amendments, was taken up, and on motion of Mr. Dosh, the amendments were concurred in.

The following Concurrent Resolution was taken up and read:

*Resolved*, by the House of Assembly, the Senate concurring, That the General Assembly will adjourn *sine die*, on Tuesday, 4th day of March next, 1857, at 12 M.

Mr. Shaw moved to concur.

Mr. Coffroth moved its reference to the Committee on Finance.

Mr. Ashley moved to make it the special order of the day for the 21st of February.

Mr. Tilford moved to make it the order of the day for the first Monday in February.

The question being on the first Monday in February, was taken and lost.

The question was then taken on making the Bill the special order for the 21st day of February and carried.

The following Message was received from the Assembly :

*Mr. President :*

I am directed to inform the Senate that the Assembly on to-day have concurred in the Senate amendments to Assembly Bill No. 40, an Act concerning the office of State Treasurer.

Respectfully,

W. CAMPBELL,

Clerk of Assembly.

January 23, 1857.

President in the Chair.

Senate Bill No. 22, an Act to repeal an Act entitled an Act to incorporate the town of El Dorado, was taken up.

Read third time, and passed.

The following communications were received from the Sergeant-at-Arms :

OFFICE OF SERGEANT-AT-ARMS, }  
Sacramento, January 23d, 1857. }

HON. R. M. ANDERSON, President of the Senate :

DEAR SIR :

In accordance with a Resolution of the Senate, requesting me to inform them of the names of all persons in the employment of the Senate as Clerks, &c., and looking to the same for compensation for their services, &c., I beg leave to make the following Report :

T. N. Cazneau, J. S. Lee, W. F. Williamson, A. Halsted, S. Houston, W. T. Parker, Assistant Clerks to Secretary Senate.

Fred. D. Chamberlin, Assistant Sergeant-at-Arms.

Yours, respectfully,

ALEX. HUNTER,

Sergeant-at-Arms.

OFFICE OF SERGEANT-AT-ARMS, SENATE, }  
Sacramento, January 23, 1857. }

HON. R. M. ANDERSON,

President of the Senate :

SIR :—In accordance with a resolution of the Senate, requesting me to inform them of the names of all persons in the employment of the Senate as porters, pages, &c., looking to the same for compensation for their services, &c., I beg leave to report the following :

Richard Bee	- - - -	Watchman.		G. L. Mountjoy	-	Post-Office Page.
F. Lawrance	- - - -	Porter.		Henry Wilson	- - - -	- Page.

Jas. Butler	- - - - -	Porter.		Geo. B. Tutt	- - - - -	Page.
J. Holmes	- - - - -	Porter.		Thos. H. Wyatt	- - - - -	Page.

Yours respectfully,

ALEX. HUNTER,  
Sergeant-at-Arms.

Which, on motion of Mr. Fiske, were referred to Committee on Contingent Expenses.

Mr. Tilford presented the following communication from the Sergeant-at-Arms :

OFFICE OF SERGEANT-AT-ARMS, SENATE, }  
Sacramento, January 23, 1857. }

HON. FRANK TILFORD,

Chairman of Judiciary Committee :

SIR :—Agreeably to the resolution passed by the Senate, authorizing me to procure a suitable room for the Judiciary Committee, in reply I beg leave to report that I have secured a room, No. 23 Read's building, and that the same is now ready for use. Hoping the same will be suitable,

Yours respectfully,

ALEX. HUNTER,  
Sergeant-at-Arms.

On motion of Mr. Tilford, referred to Committee on Contingent Expenses.

Mr. Dosh, by leave, introduced a bill to Provide for the Working of Mines or Mineral found in lands lying or being within the grants heretofore made by the Crown of Spain or the Supreme Government of Mexico to private persons prior to the Treaty of Guadalupe Hidalgo.

Read first time, rule suspended, read second time, and 240 copies ordered printed.

On motion of Mr. Merritt, the Senate adjourned.

R. M. ANDERSON,  
President of Senate.

Attest :

GEO. S. EVANS,  
Secretary of Senate

## IN SENATE.

SATURDAY, January 24th, 1857.

Senate met pursuant to adjournment.

President in the Chair.

Roll called.

Absent—Mr. Westmoreland.

Journals of yesterday read and approved.

Mr. Ashley, by leave, made some remarks explanatory of his remarks on yesterday regarding the Treasury Warrants paid on the State Prison contract.

Mr. Bell presented the petition of Richard Cole, with accompanying vouchers, praying relief, which on motion was referred to Committee on Claims.

Mr. Coffroth, Chairman of the Committee on Public Expenditures, made the following report:

*Mr. President:*

The Committee on Public Expenditures, to whom was referred a communication from the State Treasurer in reply to a resolution of inquiry whether suit had been instituted against Messrs. Palmer, Cook & Co. for their failure to pay the money intrusted to them to meet the interest falling due upon the Civil Bonds of the State on the first day of July, 1856, respectfully report:

The Committee regret that a longer period of time was not given them by the Senate to pursue their investigations, as the question at issue involves a large sum of money, as well as the credit of the State, and the character of her people. A flagrant wrong has been committed; the name of the State has been brought into contempt, and a series of financial evils have grown out of the transaction deeply affecting the welfare of California.

It appears that on the 7th of April, 1856, Henry Bates, Treasurer of State, paid over to the banking-house of Palmer, Cook & Co., of San Francisco, the sum of \$88,580; of this sum \$86,000 was to pay the interest, and the balance to meet the charges on exchange. On the 11th day of April, 1856, J. C. Palmer, C. W. Cook, G. N. Wright, Ed. Jones, C. N. Rand, J. H. Dall, R. H. Sinton, and H. A. Cobb, executed a bond to the State Treasurer, wherein they obligated themselves to pay that officer the sum of \$88,580, if Palmer, Cook & Co. should fail to meet the interest due upon the civil bonds in New York, on the 1st July, 1856. The bond further stipulated that this firm should fully complete the trust confided



therein four months from the 1st of July, which would make a final settlement compulsory on or before the 1st day of November, 1856.

On or about the 15th of August, 1856, intelligence reached the State that her bonds were dishonored in New York, and that her financial agents had failed to pay over the money intrusted to them. In this emergency, the Treasurer remitted a sum sufficient to pay the July interest through the banking-house of Wells, Fargo & Co. Of this sum \$15,000 was in the form of a draft upon Palmer, Cook & Co.'s agents in New York, which draft was duly honored upon presentation.

After the defalcation in the payment of the interest was made known, the State Treasurer demanded another bond, which was given by Palmer, Cook & Co., with Messrs. M. G. Read, Peter Folger, and W. H. Palmer, as sureties for the sum of \$73,500.

The first of November arrived, but it does not appear from any information the Committee can procure that the State Treasurer made any effort to collect the penalty of the Bond, or that he took any steps towards commencing an action against the defaulting parties. Your Committee learn that in the latter part of December the Governor of the State urged the Treasurer to bring the suit now pending in the District Court of the County of Sacramento, which request not being attended to by that officer, the Governor on the 30th day of December procured the Bonds from the Treasurer, placed them in the hands of Attorneys, and had suit commenced upon them. The action was instituted on the 2d day of January, 1857, without the knowledge of the Treasurer. So far as could be ascertained by the Attorneys in the case, except that after the complaints were written out, he was called upon to verify to the truth of the facts set forth. On the 3d of January, the Treasurer, in reply to a communication from the Governor, states that actions have been commenced against Palmer, Cook & Co., and their bondsmen, and that the suits were being energetically prosecuted. Your Committee have examined the Records of the District Court, and find that the summons has not yet been returned, although all the parties, excepting two, (Messrs. Wright and Folger) are residing within ten hours travel of Sacramento. The Committee learn, however, that service was accepted by all but two of the defendants now in the State, on the 8th of January. Under the statute the defendants have forty days to answer the complaint, which period will expire about the 20th of February, proximo. The counsel for the State have learned that an answer will be put in, and that the parties intend to defend. By this action it will be perceived that a great period of time must elapse before the suit is finally terminated, or before the State will get, if she ever does, her just dues. Your Committee cannot too strongly condemn the action of the Treasurer in refraining from prosecuting the defaulting parties. It was a duty he owed to himself and to the State, and to the credit of the people. The Committee, in conclusion, conceive they have no further authority than to report the facts to the Senate as briefly as they have above, and let the Senate take such course as its wisdom may dictate.

JAMES W. COFFROTH,

Chairman.

On motion of Mr. Tilford, the report was accepted.

Mr. Shaw, Chairman of the Committee on Claims, made the following report:

*Mr. President :*

The Committee on Claims, to whom was referred an Act for the relief of

Jotham S. Marston, report that this is a claim to authorize the Board of Supervisors of the County of Alameda to credit the petitioner, who was the former Treasurer of that County, the sum of \$7,156 44, and authorizing the State Treasurer to credit him with the sum of thirteen hundred and ninety-five dollars and forty-two cents, the same being for so much money which was stolen from the County Treasurer of said County on the night of the 12th of February, A. D. 1855; the Committee have received satisfactory evidence that the safe provided by said County for the safe keeping of the said money was robbed at the time, and of the full amount of the money before stated, without the slightest knowledge or complicity of the petitioner, and that no part of the same ever has been or is likely to be recovered; and they are also satisfied that the said County intends to release the petitioner—who is shown to be a man of irreproachable character—of so much of said funds as belonged to said County; and your Committee, after due consideration and examination of the subject, unanimously recommend the passage of the bill, which will allow him a similar credit on the books of the Treasurer of State for the amount of said stolen funds which belonged to the State.

WM. J. SHAW,  
Chairman.

Report accepted, and bill placed on General File.

Mr. Shaw, Chairman of the Committee on Claims, made the following report:

*Mr. President:*

The Committee on Claims, to whom was referred the claim of John S. Clark, Deputy Sheriff of the county of Stanislaus, report that this claim is for services and expenditures in arresting an escaped convict named J. W. Kelly, in May, 1855. Mr. Clark, it would seem, arrested Kelly, and with an assistant proceeded to deliver him at the State Prison. On their way thither, their prisoner was forcibly taken from them by citizens of the town of Gilroy, against whom he had committed some offenses, and hung. The account for these services, includes \$90 said to have been expended for expenses, and is only \$250 in all, and it is so reasonable as to incline the Committee to regard it as a meritorious claim. But the claim is not substantiated by competent legal proof, and owing to this fact, and to grave doubts about the propriety of allowing it all, even if fully proved by competent evidence, the Committee recommend that the same be not allowed.

WM. J. SHAW,  
Chairman.

On motion of Mr. Mandeville, the report was laid on the table.

Mr. Shaw, Chairman of the Committee on Claims, made the following report:

*Mr. President:*

The Committee on Claims, to whom was referred an Act appropriating two thousand dollars for the relief of Francis R. Crussell, report that this claim is founded upon the fact that the petitioner, shown to be a good and worthy man, did, in the month of February, 1856, while commendably acting under the

orders of an officer of the law, in the County of Alameda, receive a gun-shot wound, which caused him great suffering and deprived him for a long period of the means of support. The case is one of great hardship ; but to grant any relief in money, by the Government, would, in the opinion of your Committee, establish a precedent which would soon overrun the Legislature with similar applications ; and besides the danger of establishing such a precedent, your Committee would also suggest that it would not be competent for the Legislature, under the present exigencies of the Government, to incur any debt for any purpose not included in those which are indispensably necessary for continuing the existence and operations of the Government itself ; they therefore recommend that the bill be indefinitely postponed.

WM. J. SHAW,  
Chairman.

Report accepted and bill placed on file.

Mr. Coffroth, Chairman of the Committee on Public Lands, made the following report :

*Mr. President:*

The Committee on Public Lands, to whom was referred Assembly bill No. 12, an Act to authorize the State Treasurer to issue duplicate School Land Warrants to Milton Wolfskill, report the same back, and recommend its passage.

JAMES W. COFFROTH,  
Chairman.

Report accepted and bill placed on general file.

Mr. Tilford, Chairman of the Judiciary Committee, made the following report:

The Judiciary Committee have had under advisement Senate bill No. 21, for an Act to fix the compensations of the County Judge and Supervisors of the county of Tehama, and recommend its passage with the following amendments :

In section 2, between the words " compensation " and " of," insert the words " of each." Strike out the third section.

Report accepted, amendments of Committee adopted, and bill placed on general file.

Mr. Tilford, Chairman of the Judiciary Committee, made the following report:

*Mr. President:*

The Judiciary Committee have had under consideration the petition of the officers of the Mechanics' Institute of San Francisco, praying for an amendment to the existing mechanics' lien law. It was undoubtedly the intention of the Legislature, when it passed the lien law at its last session, to give to mechanics' liens, duly filed and recorded, precedence over any mortgage or other incumbrance unrecorded at the time the work of the mechanic commenced, or the materials furnished.

Unhappily it failed, as appears by the decision of the Supreme Court in the case of *Julius K. Rowe vs. Alexander Munie*, 4th California Reports, page 173, to express that design. The result has been that great frauds have been perpetrated, and irreparable injury inflicted on the mechanics of this State. The Committee, therefore, beg leave to submit herewith an Act explanatory of the Act concerning Liens to Mechanics and others, passed at the last session of the Legislature, and recommend to the Senate its immediate passage.

Report accepted and bill placed on general file.

Mr. Sullivan, from the Committee on Engrossed Bills, made the following report:

*Mr. President:*

The Committee on Engrossed Bills have examined Senate bill No. 16, entitled an Act to amend an Act entitled an Act to provide for the sale of the Swamp and Overflowed Lands belonging to the State, approved April 28th, 1855, and find the same correctly engrossed.

E. L. SULLIVAN,  
Chairman *pro tem*.

Mr. Walkup offered the following report:

*Mr. President:*

The undersigned, to whom was referred Senate bill No. 23, entitled an Act amendatory of and supplementary to an Act to authorize the Board of Supervisors of Placer County to levy a Special Tax, have examined the same and recommend its passage.

JOS. WALKUP.

Report accepted and bill placed on general file.

The Annual Report of the Board of Trustees of the Insane Asylum of California, for the year 1856, was taken up, read by caption, and, on motion of Mr. Mandeville, reading dispensed with and Report referred to the Joint Committee on Printing.

The following message was received from the Assembly :

*Mr. President :*

I am directed to inform the Senate that the Assembly on yesterday passed Assembly bill No. 18, an Act to fix the time of holding the Courts in the counties composing the Thirteenth Judicial District.

Also, Assembly concurrent resolution relative to Mail Routes in California.

Also, Senate concurrent resolution, making the Committee of Assembly and



Senate on Public Expenditures a Joint Committee to examine the accounts of the Controller, Treasurer of State, &c.

Also, Assembly concurrent resolution, relative to the official bond of the State Treasurer.

W. CAMPBELL,  
Clerk of Assembly.

January 24, 1857.

Mr. Mandeville in the chair.

Assembly bill No. 18, an Act to fix the time for holding the Courts in the counties composing the Thirteenth Judicial District.

Taken up, read first time, rule suspended, read a second time, and referred to the Tuolumne and Mariposa delegations.

Assembly Concurrent Resolution relative to mail routes in California, was read, and on motion of Mr. Cosby, concurred in.

Assembly Concurrent Resolution relative to the official Bond of the State Treasurer, was taken up and read, and on motion of Mr. Shaw, referred to the Judiciary Committee with instructions to report on Monday.

Mr. Norman introduced a Bill entitled an "Act to exempt mining claims and mining implements, from forced sale in certain cases," which was read first time, rule suspended, read a second time and referred to Committee on Mines and Mining Interests. .

Mr. Bynum introduced a Bill entitled an "Act to authorize the Administrator and Administratrix of Archibald A. Ritchie, deceased, to sell the real estate of their intestate at private sale," which was read first time, rule suspended, read a second time and referred to Judiciary Committee.

Mr. Taliaferro introduced a bill entitled an Act to remunerate J. W. Denver for his services as Commissioner of the California War Debt; which was read first time, rule suspended; read a second time, and, on motion of Mr. Taliaferro, was referred to the Committee on Claims.

Mr. Walkup introduced a bill entitled an Act concerning the Board of Supervisors of Placer County ; which was read first time, rule suspended; read second time, and referred to the Placer Delegation.

Mr. Merritt, by leave, offered the following report:

*Mr. President :*

The Delegation from Tuolumne and Mariposa, to whom was referred Assembly bill No. 18, an Act to fix the time for holding the Courts in the Counties com-

prising the Thirteenth Judicial District, beg leave to report the same back without amendments, and recommend its passage.

Respectfully submitted,

COFFROTH,  
MANDEVILLE,  
MERRITT,  
Committee.

Report accepted, rule further suspended, bill read a third time and passed.

Mr. Tilford gave notice that on Monday next, or at an early day thereafter, he will introduce a bill for an Act to submit the indebtedness of the State to the people, in accordance with the 8th article of the Constitution.

Mr. Fiske offered the following resolution :

*Resolved*, By the Senate, the Assembly concurring, That the map of the State of California drawn by G. H. Goddard, Esq., of Sacramento, and published by Britton & Ray, of San Francisco, be and is hereby declared the official map of the State of California,

Which on motion of Mr. Tilford, was referred to Committee on Counties and County Boundaries.

Mr. Cosby gave notice that at an early day he will introduce a bill to provide for the payment of the debt incurred in prosecuting the war against the Modoc, Pitt River, and other tribes of Indians during the summer and fall of the year 1856.

Mr. Tilford offered the following Resolution :

*Resolved*, That the Judiciary Committee be authorized to hire a Clerk from and after the 26th of the present month.

Adopted.

#### GENERAL FILE.

Assembly Bill N. 26, an Act supplementary to an Act entitled an Act to separate the office of Collector of Taxes from the office of Sheriff in the county of Yuba, approved April 27, 1855.

Read first time. Rule suspended. Read a second time, and referred to Yuba Delegation.

Senate Bill No. 16, an Act to amend an Act entitled an Act to provide for the sale of Swamp and Overflowed lands belonging to the State, approved April 28th, 1855, which was this morning reported from Engrossing Committee, was then taken up.

Mr. McCallum moved to recommit the bill to the Committee on Public Lands, with instructions to amend the same, so as to repeal the 5th section of the original Act, and make the same require the speedy payment for the lands mentioned in the original and amended Act as to future purchasers.

Mr. Bell offered the following amendment :

Amend Section — by inserting :

*Provided*, That no provisions of this Act shall be so construed as to affect adversely the rights, titles and interests acquired by parties who have made and filed their affidavits to take up and enter upon Swamp and Overflowed Lands under the provisions of the Act passed April 28th, 1855, and who have had surveys made in accordance with existing laws.

Lost.

The question being on the motion of Mr. McCallum to re-commit, was put, and the Bill re-committed to the Committee on Public Lands with the special instructions.

Senate Bill No. 32, was taken up and referred to the Committee on Mines and Mining Interests.

Senate Bill No. 23, an Act for the relief of Jotham S. Marston, was taken up.

Mr. Bell moved that the bill be considered engrossed, and read a third time, and passed.

Lost.

On motion of Mr. Shaw it was ordered engrossed.

Senate Bill No. 30, an Act for the relief of Francis R. Crussell.

On motion the bill was indefinitely postponed.

Assembly Bill No. 12, an Act to authorize the State Treasurer to issue Duplicate School Warrants to Milton Wolfskill.

Read third time, and passed.

Senate Bill No 29, an Act amendatory of, and supplementary to, an Act to authorize the Board of Supervisors of Placer County to levy a Special Tax, approved March 11th, 1856.

Ordered to be engrossed.

Senate Bill No. 21, an Act to fix the compensation of the County Judge and Supervisors of the county of Tehama.

Ordered to be engrossed.

Mr. Coffroth, Chairman of the Committee on Public Expenditures, made the following report :

*Mr. President :*

The Committee on Public Expenditures, acting in conjunction with the Assembly Committee, have just concluded a count of the money in the State Treas-

sury, in pursuance of the Joint Resolution upon the subject, respectfully report that they find now in the vaults of the State Treasurer the sum of one hundred and forty-one thousand and eighty dollars and fifty-two cents, as follows :

In coin.....	\$131,850 07
Gold dust.....	9,230 45
Total.....	\$141,080 52

All of which is respectfully submitted.

JAMES W. COFFROTH,  
Chairman.

Senate Bill No. 38, an Act Explanatory of the Act concerning Liens to Mechanics and others, passed April 19th, 1856.

Read first time. Rule suspended. Read second time, and ordered to be engrossed

On motion of Mr. Taliaferro, the Senate adjourned.

Approved January 26th, 1857.

R. M. ANDERSON,  
President Senate.

Attest:

G. S. EVANS, Secretary Senate.

## IN SENATE.

MONDAY, January 26, 1857.

Senate met pursuant to adjournment.

President in the chair.

Roll called.

Journal of Saturday, January 25th, was read and approved.

## PETITIONS.

Mr. Chase presented the petition of J. N. Turner and others, praying for the passage of a law requiring that all places of business and amusement be closed upon the Sabbath day.



Referred to Committee on Public Morals.

Mr. Tilford presented the petition of T. J. A. Chambers & Co. of San Francisco, for relief.

Referred to Committee on Claims.

Mr. Tilford presented the petition of R. G. Crozier, late City Marshal of San Francisco, for relief.

Referred to Committee on Claims.

Mr. Tilford presented a memorial from W. N. Walton, Attorney for the Union Land Association of San Francisco.

Referred to Committee on Public Lands.

#### REPORTS OF COMMITTEES.

Mr. Tilford, Chairman of the Judiciary Committee, made the following report:

*Mr. President :*

The Judiciary Committee, in compliance with instructions from the Senate, report back Senate Bill No. 34, with the following amendments :

Strike out all after the words "Section 4," and insert the words following, viz :

The Administrator and Administratrix shall make a full Report of the sale or sales of said real estate to the Probate Court of the county of San Francisco. The Judge of said Court shall examine the same, and confirm, or set aside the said sale or sales, as in other cases of sales of real estate by Executors or Administrators.

F. TILFORD,  
Chairman.

Report accepted, and bill placed on General File.

Mr. Tilford made the following report :

*Mr. President :*

The Judiciary Committee have had under advisement Senate Bill No. 13, and recommend its passage, with the following amendments, namely :

In the title strike out all after the words "first," and insert the following words:

"All claims or accounts against any county in this State shall be presented to the Board of Supervisors of said county, duly authenticated, within twelve months

from the time such claims or accounts become due and payable." Amend Section 2d by inserting between the words "claims" and "against" the words "or accounts." Strike out the words "counties" and insert the word county." On the fourth line of said section, between the words "authority" and "unless" insert the words "of said county." Amend Section 3d by striking out the word "any" on the 4th line, and insert "the same." Strike out all after the word "county" in said section. Strike out Section 4th.

F. TILFORD,

Chairman.

Report accepted, and bill placed on General File.

Mr. McCallum made the following report :

*Mr. President :*

The Committee on Contingent Expenses, to whom was referred a communication of the Sergeant-at-Arms, concerning the employees of the Senate, report the following Resolution, and recommend its adoption :

*Resolved*, That the Secretary of the Senate be authorized to employ as Assistant Clerks, one Journal Clerk, and three Copying Clerks, and that no further liability should be incurred for such services.

The Committee also report the following Resolution, and recommend its adoption :

*Resolved*, That the appointment of one Watchman and two Porters, and one Post Office Page, and two other Pages, is authorized, and that no further liability be incurred for such services.

J. G. McCALLUM,

Chairman.

Report accepted, and placed on General File.

The following report was received from the Committee on Public Lands:

*Mr. President:*

The Committee on Public Lands, to whom was referred an Act for the sale of the Swamp Lands, with instructions to amend the 5th section, report the same back with the desired amendment, and also an additional section, and as so amended, respectfully recommend its passage.

JAS. W. COFFROTH,

Chairman.

#### AMENDMENTS BY COMMITTEE.

Sec. 3. Section five of said Act is hereby amended so as to read as follows: "Section 5. Any person or persons, wishing to purchase lands under the provisions of this Act, if preferred by such purchaser or purchasers, have a credit of six months for the same, by paying interest at the rate of ten per cent. per

annum upon the purchase money, which interest, as well as principal, may be paid in the same manner as provided by the fourth section of the Act, to which this is amendatory."

Sec. 4. For all lands taken up under this Act, that were exempted under section eleven of the Act of April 28th, 1855, there shall be paid per acre the sum of two dollars, in the same manner as provided by the fourth section of the Act to which this is amendatory.

Report accepted, and bill and amendments made the special order of the day for half-past 12 o'clock.

Mr. Shaw, Chairman of the Special Committee to whom was referred the bill for an Act recommending to the Electors to vote for or against a Convention to revise and change the Constitution of this State, made the following report:

*Mr. President:*

The Special Committee to whom was referred the Act recommending to the electors to vote for or against a Convention to revise and change the Constitution of this State, respectfully submit the following report :

The Committee find that no measure of comparative importance has so long, and so continually occupied the attention of the Executive and Legislative departments of this government as the measure of constitutional reforms; and they believe that a brief history of the action which has been had upon the subject by our predecessors in this department of our government will tend at this time to convince us all, that the measure ought to be no longer withheld from the action and decision of the people.

#### THE PAST LEGISLATIVE HISTORY OF THIS MEASURE.

The Committee find that in the first Annual Message ever delivered to the Legislature of this State, Governor Burnett strenuously urged the necessity of immediately amending the Constitution in an important particular; and that by the time the next succeeding Legislature had assembled, in January, 1852, the conviction had already become so general that the present Constitution was not suited to the condition of the country, and ought to be immediately revised and changed, that many believed the people would sanction and uphold the calling of a Convention for that purpose by the Legislature without first submitting the question to the people, as required by the measure now before us, and by the existing Constitution. Accordingly, we find that on the 3d day of February, 1852, a Joint Resolution was introduced in the Assembly, calling a Convention at once, which was entertained, and was referred to a Special Committee of thirteen members. On the next day an Act providing for the accomplishing the same object was also introduced therein, and referred to the same Committee. Nine members of the Committee unanimously recommended the passage of the Act, and signed a report to that effect, which concludes in the following language:

"The Constitution has been weighed in the balance and found wanting; its doom is written in the handwriting of the people. We are taught by high authority that every tree that bringeth not forth good fruit shall be hewn down

and cast into the fire. The people are ready to wield the axe. We therefore recommend the calling of a Convention to revise the Constitution without delay."

The remainder of the Committee made a minority report not disputing the usefulness which might result from a Convention, but opposing the manner in which the majority of the Committee proposed to call one. On the 20th of the same month of February, the late Mr. Wall, of Monterey, introduced a bill, the same in all respects as the one now before the Senate. Mr. Wall's bill was finally adopted, and passed in the Assembly by an almost unanimous vote. The Senate and Assembly then consisted of but 90 members—27 in the Senate and 63 in the Assembly. The Assembly passed the bill by 51 votes in its favor to only seven against it. But in the Senate the bill was finally indefinitely postponed by a vote of 11 to 10. It may be safely affirmed that the defeat of the measure, even at that early day, was not owing to any arguments or good reasons used against the measure itself, but may be fairly inferred by reference to a motion made in the Assembly to amend the bill, by adding after the words "for a Convention" the words "and slavery." At the next session, held in 1853, the same measure now before us was again introduced in the Assembly, and again referred to a Special Committee of thirteen, and they then reported unanimously in favor of its passage. Their report was written with much ability, and is well worthy the attention of members at the present time. Among many other reasons given in favor of the measure, the report urges the necessity of making immediate constitutional provision for curtailing our enormous public expenditures, and providing in a new Constitution for the then existing and unconstitutional indebtedness. The report concluded with the following forcible inquiries propounded to the opponents of the measure:

"To what extent (said they) do you desire the catalogue of grievances to be increased before you will consent to afford a remedy? How large a State debt do you desire to accumulate before you will yield to retrenchment and to the abandonment of a ruinous system of extravagance? How heavy shall be the burden—how devastating the effects of unequal taxation, before you will consent that the burdens and blessings of government may rest equally upon all?"

The Assembly again passed the bill by a majority slightly less than was had at the previous session, but yet nearly four to one, being 46 in its favor to only 12 against it. During the same session of 1853, the Senate was also greatly occupied with this subject. The Governor recommended, in effect, that the Legislature should undertake to revise the Constitution, and officially suggested defects requiring at least ten or twelve important alterations in that sacred charter, without including any reference to the Judiciary, which, perhaps, more than all others, required to be immediately amended. There were no less than five different written reports made to the Senate on this subject during that session. Among them is the reports of the Select Committee to whom had been referred the Assembly bill. They reported unanimously in favor of its passage by the Senate, and concluded their report in the following language:

"It is admitted on all hands that quite a large number of amendments to the existing Constitution can be made with decided advantage to the government and people. It is not denied that many of these amendments are positively required, and absolutely necessary to the protection of the interests of the State, and the preservation of the public faith." "What then is our duty as the Representatives of the people? It is clear—it becomes our sworn duty without further delay, to prescribe the best and most effective mode by which the required amendments can be made."

On the next day after this Report was made the Senate voted in favor of the passage of the Assembly Bill, by a vote of 16 in its favor to only 10 against it.



But in the language of the Journals the chair decided that the Senate had refused to pass the Bill, as it had not received the Constitutional vote of two-thirds.

Thus it is shown that a Democratic Legislature came within only two votes at most of passing this Bill four years ago. And not one single amendment to our Constitution of any practicable importance having yet been adopted, it is impossible to believe that any conscientious legislator can find reasonable excuse for any further delay of this measure.

On the assembling of the Legislature of 1854 the Governor again urged their attention to the necessity of amending the Constitution; and after directing attention to the numerous amendments recommended in his previous message, and suggesting an additional one, which had been recommended by Governor Burnett three years before, he pointed out what he declared to be "a highly important defect" in the second section of the tenth article of the Constitution.

It was shown that the section referred to made no provision whereby a Constitutional Convention would be required to submit its action to the people; and the idea was conveyed that a Convention could adopt a Constitution and make it the law of the land without first submitting it to the people for their adoption; and in consequence of this supposed omission, the Governor advised the amendment, which was finally adopted by the then next succeeding Legislature of 1855, and agreed to at the session of 1856, and is the one which was ratified by the people at our general election in November last. The necessity for adopting such an amendment has never been made very apparent, and by reference to that part of this Report which will refer to the provisions on the subject of conventions and amendments in the Constitutions of other States, it will appear that such a provision is not generally thought to be at all necessary. But nevertheless, that "highly important defect," together with alarming calculations concerning the expense of a Convention constitutes the chief arguments which have been used since that time against allowing the people to vote on the question of calling a Constitutional Convention. The Legislature of 1854, to whom the Governor had pointed out the said "omission," seem to have acquiesced in a more safe, cheap and economical mode of amending our Constitution, and a Joint Committee of the Senate and Assembly, was appointed at that session to prepare amendments; but the amendments reported by the Committee were not adopted; and although the same measure which had passed the Assembly at the two preceding sessions was again introduced, it was not placed upon its passage, and perhaps no vote was taken upon it.

But, in 1855, the more safe and economical mode, which had been so long and so sincerely urged, of amending the Constitution by the Legislature, was thoroughly tried; and after incurring an expense of some \$25,000—which has already been paid by the State for advertising the amendments then adopted, and which is full one-half of the utmost expense which need be incurred by a Convention, to say nothing of the additional expense incurred in passing or acting upon the said amendments, (as is required by the Constitution,) at two successive sessions of the Legislature—after all that expense and delay, and honest and sincere effort for constitutional reform, the result of the undertaking is too humiliating to need any farther comment or observation concerning the wisdom, even if we had the power—which we have not—of revising and amending the Constitution through the action of successive Legislatures. It is but proper, however, to observe, as conclusive evidence of the danger and insecurity attending such a mode of revising the Constitution by officers whose minds are continually occupied with secondary and entirely different duties, that one of the aforesaid amendments, published at the expense of the State, proposed to dispense with the third section of article six of the Constitution of the United States, and also proposed to dispense with requiring any officer of this Govern-

ment to swear that he would support the Constitution of this State. And all the others of said amendments—except the one adopted at the last general election—the Legislature of 1856 found it proper and necessary to also reject.

SPECIFICATIONS OF SOME OF THE OBJECTIONS TO THE CONSTITUTION.

At the commencement of the session of 1856, the Governor again urged the Legislature to proceed with the business which had then been attempted for so many years of amending the Constitution. But instead of that course being adopted, the same bill now before the Senate, was therein introduced, and the whole subject was therein reviewed and discussed, at unusual, and under other and ordinary circumstances, unnecessary length.

It is the unanimous opinion of the Committee, that the sixth Article of the Constitution, which establishes the existing judicial system of this State, is totally and radically unsuited to the condition of this country, and requires entire revision and alteration. And they earnestly submit that any attempt by this department of the Government to plan and control an entire revision and change in the organization itself of either of its other departments would be an unprecedented and injudicious, if not also an entirely unwarrantable proceeding. It would certainly admit a power in this department over the very plans and organization of the other departments, which was perhaps not contemplated by the Constitution, and would be a clear violation of the spirit, if not of the express language, of that instrument. In a Government like ours, they regard the judicial system as the balance wheel of all the other systems of our government. And as everything else connected with the Government, must of necessity move without any regularity or advantage, whilst the judicial system itself is without any proper balance; and since it is with us less guarded, less wisely adjusted, and more recklessly placed than the judicial system of other and less important States, and since it would be presumptuous if not wholly improper, for this department of the Government, as has been suggested, to undertake to prevent all amendments to the organization of either of the other departments, except such as this department alone shall see fit to first allow and prescribe; your Committee would consider it their duty to recommend the question of a Convention to the people, if there were no other alterations except those of the Judiciary alone to be made to our Constitution. They consider that an entire change in either of the three departments created by the Constitution would be a change of the entire Constitution, within the evident meaning of those words.

Yet the Committee find that not this article alone requires revision and change, but that it is also "necessary to revise and change the entire Constitution" for other reasons. And as they may be expected to show at least some of the reasons for this conclusion, they will, for the sake of brevity, reiterate the following objections to our Constitution, which were presented and argued at the last session of the Legislature :

1st. That our Constitution was adopted before the real condition and wants of the country had been fully developed and made known, and consequently must, from the very nature of things, be less complete and beneficial than one which could be prepared with our present experience.

2d. That it imposes no checks upon the enormous sums which the Legislature can allow its favorites in the different counties under the guise of official services; whereby public offices are made the objects of speculation or profit, rather than the mere performance of public duties.

3d. That it does not restrain a few citizens in the Legislature from selling or otherwise disposing of any or all of the public domain and property of the

State, at such time and upon such terms as they may see fit to adopt, without being required, in any case whatever, to previously advise the people of their intentions, or to give them an opportunity to express their wishes with regard to the disposition of their property.

4th. That it enables the Legislature to create whole counties without allowing them one Representative in the Assembly ; and limits the entire legislative representation of the State to a small number of individuals, not exceeding, perhaps, one-half of the number which the public interests and security demand, at the present time, and being comparatively much less than is allowed in every other State in the Union ; whilst the gross sum now paid to the members of the Legislature need not be at all increased by doubling their numbers.

5th. That it allows officers to be appointed by the Executive, who ought to be elected by the people ; and allows the Legislature, by a mere majority vote, to create new offices (however unnecessary,) and fix the compensation of the incumbent.

6th. That it allows the Legislature to fix the pay of its own members without any limitation to the amount.

7th. That it allows the Legislature to continue in session for such length of time, less than a year, as it sees fit, and at the same compensation during the whole period.

8th. That it allows the Legislature at each session to employ as many officers, clerks, attaches and servants, as it chooses, and fix their compensation ; whereby such numbers have been employed, and at such rates, as to annually cause an expense nearly equalling the whole sum paid to the members of both Houses of the Legislature.

9th. That it imposes no checks whatever upon the sums which the Legislature may expend and order to be expended, under the head of contingencies ; whereby, through this and the other powers referred to, the expenses of the Government are at least three times greater than there is any actual necessity for.

10th. That it leaves the entire finances of the State under the complete control of the Legislature, without any constitutional check, system, or regulation whatever, leaving all the different funds to be thrown into confusion ; the moneys in one fund (however sacred the trust,) to be borrowed and expended through another fund ; and appropriations of property to one fund for some specific object, to be taken by some other fund at such price and upon such terms as the majority of a few persons being the members of the Legislature may see fit to direct, and in this and other ways, leaving the whole finances of the State continually upon a hazard.

11th. That it does not restrain the Legislature from passing purely local and private bills, of no general public utility or advantage, whereby its sessions have been uselessly prolonged, the public expenses unnecessarily increased, and the doors of the Legislature thrown open to invite partial, personal, and corrupt legislation.

12th. That it does not create a direct responsibility between each individual legislator and those whom he undertakes to represent ; making no provision for as many Senatorial and Assembly Districts as there are members of each in the Legislature, whereby each neighborhood or certain number of citizens could have their own separate representatives, and the vote of each citizen would be made to count equally towards making up the legislative representation of the country.

13th. That its plan for punishing official misconduct in District Judges and other inferior State officers, only by indictment in the Assembly, and a judgment agreed to by two-thirds of the members of the Senate, is contrary to Demo-



eratic principles, enormously expensive, wholly unnecessary, and against public policy.

14th. That its provisions concerning the sacred rights of the people to have all their cases tried by juries, have proved to be defective, and in consequence the Supreme Court has annulled a long established law of this State, and decided that the people are not entitled to trial by jury in a very large class of civil cases which it calls Chancery cases ; and that all such cases are to be tried only before one man, who is to act as both Judge and jury ; whereby not only is the right of trial by jury invaded to an extent that is dangerous in this country, but the Supreme Court itself usurps a new power, and assumes the right to pass upon the facts, as well as the law, in any cases which it shall please to designate by a particular name.

15th. That its provisions requiring that *all* laws of a *general* nature shall have a uniform operation, is not merely useless, but seriously injurious, interfering as it does with the passage of laws of a general nature, to operate differently in different counties, according to their several different wants and necessities.

16th. That it permits each House of the Legislature to determine the elections of its own members, without any qualification of such right, whereby the people can be defeated in their own choice of Representative, and in spite of their own wishes another can be elected in his place whenever a majority of the House to which he is elected may see fit, upon partizan or any other grounds, to exercise this power.

17th. That it prohibits any revision or amendment of a law, without re-passing and reprinting the whole of the revised law or section amended ; whereby the public expenses are greatly increased without any necessity or actual public advantage.

18th. That it bestows upon only one man, and without any restraint or qualification, the monarchical power, (more absolutely than is at present vested in the English crown,) of granting reprieves and pardons to criminals after they have been duly and lawfully convicted by the unanimous approval of courts and juries.

19th. That it creates a bureau of education, to be presided over by an independent officer) without making any provisions (in relation to the grandest object of human politics) rendering such an officer necessary, and without limiting the term of his office within reasonable and consistent bounds.

20th. That it requires *all* laws, decrees, regulations and provisions, which from their nature require publication, to be published in the Spanish language ; whereby a great expense is unnecessarily entailed upon the country, without the power of diminishing it, so as only to comply with what our Spanish population really require in relation to this subject.

21st. That it does not *effectually* prohibit the Legislature from contracting civil debts or liabilities, without the previous consent of the people who pay them ; nor restrain its vile powers of funding liabilities illegally and unjustifiably contracted ; and thus forcing debts upon the people which they never assented to, nor were benefited by, nor were under any obligations to pay, either legal or moral.

23d. That it throws difficulties in the way of revising and changing the Constitution, which are unnecessary, impolitic, and inconsistent with the principles upon which the Government is founded.

That all this enumeration of defects to our Constitution will be agreed to by every one, is not pretended ; but when taken in connection with the defects of our judicial system, and other numerous and equally important defects well known to exist, and not here referred to, enough valid objections will be admit-



ted by all, to at least fully justify the conclusion to which your Committee have unanimously arrived, that it "is necessary to revise and change the entire Constitution."

#### CONSTITUTIONAL PROVISIONS IN OTHER STATES ON THIS SUBJECT.

But, in order to render still more apparent and unavoidable their said conclusion, they beg leave to briefly refer to the Constitutional provisions of other States, in relation to the same subject matter; whereby it will appear that the Legislatures of other States are not permitted to interpose so much obstruction and delay to Constitutional Conventions and reforms, as has been practised by the Legislature of this State.

They find that in New Hampshire, which was for two ages one of the most firmly Democratic and best governed States in the Union, the people have always enjoyed the Constitutional right, fixed beyond all control or interference of their Legislature, of voting for or against calling a Convention to revise their Constitution at least as often as once every seven years.

In Vermont, the Constitution itself, also provides for calling a Convention to revise her Constitution as often as once every seven years. The people of that State are authorized to elect, septennially, an extraordinary body called the Council of Censors, who are directed, among other high duties, to make provisions for a Convention to change their Constitution, if there appears to them "a necessity of amending *any Article of it* which may be defective." Thus, providing that even if one single section of their Constitution requires amendment, it must be done by delegates chosen by the people for that express and sacred object. Even "Old Federal Massachusetts," as that great State has often been called, allows amendments to be made to her Constitution on more favorable terms than is vouchsafed to the people of this State. And in 1820, when it was thought that more than one *amendment* was required to the Constitution of Massachusetts, a Constitutional Convention was called, merely for that purpose, and the first nine amendments to the Constitution of that State, were prepared for submission to the people only by a Constitutional Convention. In Connecticut, the popular branch of the Legislature alone, without the Senate, can make as much progress towards Constitutional amendments when first proposed, as two-thirds of the Senate and two-thirds of the Assembly are allowed to make, under our Constitution. In New York, also, only a majority vote is required, when our Constitution requires a two-thirds vote to effect amendments. And, besides, the people are directed by their Constitution to vote at stated periods for or against a Convention, whether the Legislature previously recommends such a vote or not. In New Jersey, the Constitution provides for amendments by a majority vote, where ours requires a vote of two-thirds. And in Pennsylvania, the same thing is true, and in both those States it is believed the Legislature can, by ordinary vote, recommend the people to vote for or against a Constitutional Convention, at any time they may deem it advisable. In Maryland, the Constitution expressly requires the people to vote for or against a Convention to revise their Constitution as often as once every ten years. In Virginia, the birthplace, and we trust the everlasting home of American Democracy, the Constitution boldly declares that "a majority of the community hath an indubitable, inalienable, and indefeasible right, to reform, alter, or abolish it, in such manner as may be most conducive to the public weal." And it would seem that the subject of a Convention is there left to the free, but not undefined nor unsafe disposition of the people, at all times.

In the Constitution of Kentucky, particular provision is made (after pre-re-

quisites are complied with) for the organization of a Convention to adopt a new Constitution, but neither in that State, nor in North Carolina, South Carolina, Florida, nor a single one of all the States which have been named, is there any provision requiring a Constitutional Convention to submit its action to the people, nor compelling a Convention, in its deliberations, to make use of the English language, the one seeming to be taken for granted as much as the other. In other States besides those already specified, the people have wisely reserved the right in their Constitutions to vote for or against Conventions to revise them, without awaiting the action of their Legislatures. In Michigan, also, the people have a right to vote on the question of a Convention whenever the ordinary majorities in the Legislature may pass a law for that purpose. But in this State, two-thirds of each branch of the Legislature must concur in such an act, or a concurrent resolution, perhaps, before the people can even be trusted so far as to vote on the question of calling a Convention! In the Constitution of Iowa, (of which our's is but an injured copy,) it is provided that, if at any time a majority of the members of the Legislature shall think it necessary to revise or amend (even to *amend*) their Constitution, provision shall be made for calling a Convention by the people for that purpose. In addition to the foregoing reasons why the question of a Convention ought to be no longer withheld from the people of this State, the necessity of the measure, as the only relief from our present financial crisis, might be presented, but it has been deemed impolitic to connect another and merely temporary question with the one now before us, which is neither temporary in its character, nor fit to be controlled nor affected by other and distinct issues. But the policy may be most profoundly questioned of submitting our past indebtedness, in any form whatever, to a vote of the people, without presenting them at the same time, with some evidence of a determination to close up every avenue to public waste and extravagance for the future. Indeed, the people might wisely conclude that to merely vote in favor of our past debts (conceding that the question can be lawfully presented to them,) without seeing at the same time any security against the future, would only tend to renew and prolong the same system of extravagance which has always hitherto marked our unprincipled public conduct. A thorough revision and change, however, in our Constitutional organization, while it could give us a more efficient, popular, strong and beloved government, could, at the same time, with the utmost ease and without the least uncertainty, reduce the legitimate expenses of our government at least one-half a million of dollars every year.

#### THE TIME NECESSARY.

As to the time requisite for calling a Convention, delegates could and ought to be elected to it within thirteen or fourteen months from the present time, and a new Constitution can be easily submitted to the people at the general election of next year. The Constitution does not require, or in any manner impose, any longer delay for submitting a new Constitution to the people than is required for submitting any single amendment to them. On the contrary, unless two successive Legislatures elected for two successive years, should precisely agree to any given amendment, without the alteration of a single word thereof, the most tedious and prolonged mode for getting any amendment before the people is by legislative action—not by a Convention. Persons outside of the Legislature who have represented to the people that it will take longer to procure constitutional reforms by a Convention than by the action of the Legislature, are entirely in error, and exhibit a fault which is one of the most important and injurious of our times,

and one from which no man can claim to be properly exempt—the fault of deliberately entertaining, or of writing down and publishing dogmatically, opinions concerning subjects of grave importance to the country, without first undergoing the earnest labor which prudence and duty command before we undertake to condemn or approve them.

IT WOULD BE IMPROPER FOR THE LEGISLATURE TO ATTEMPT THE REQUIRED REFORM

Whether it would take a longer or a shorter period for the Legislature to adopt amendments, than for a Convention to do so, has little to do with the oath we have taken to support and follow the Constitution, and not our own notions concerning this subject. We have already shown that by necessary implication, and in order to preserve inviolate from radical change or destruction the Executive and Judicial Departments of the Government, and also by allusion to analagous provisions in other State Constitutions, in some of which not one amendment can be made except by a Convention, and in some of which, one, but not two distinct amendments, can be proposed by the same Legislature; and also by allusion to the number of amendments, and the evidence that a revision of the entire Constitution is here required, and also by some allusion to the custom of other States, and to the utter abortion, to say nothing of the impropriety of a similar attempt heretofore undertaken in this State, we say we have, in this manner, already shown, or endeavored to show, that any attempt on the part of the Legislature to provide for the numerous amendments to our Constitution, which all concede to be necessary, without first giving our people the right to call a Convention, if they shall deem that the better and safer mode, would be a very gross violation of duty on the part of the members of this branch of the Government.

THIS MEASURE COSTS NOTHING—ERRONEOUS NOTIONS AS TO THE EXPENSE.

Similar to this erroneous, if not injurious notion, which has been so long instilled into the people of this State, that they ought to look to their Legislatures, and not to a Constitutional Convention, to achieve the reforms necessary to be made in their Government, is the equally erroneous notion, that it is the duty of the Legislature not to let the people vote for calling a Convention, so long as they may feel certain that a Convention could not be called without great additional expense, upon an already oppressed and tax-ridden people. If it were in the power of the Legislature to call a Convention at all, there would seem to be some show of reason for such an idea, although even then it would not be well founded, because a Convention is for the purpose among others, of so changing our government as to render it cheap and economical, and it is therefore properly and legitimately a measure of strict economy, and not in any proper sense a measure of expense. But since, in point of fact, it is not in the power of the Legislature to call a Convention at all, it is still more difficult to discover either the reasonableness or common sense of continually interposing this objection as any excuse for not permitting the people to call a Convention if, in their superior right, and superior knowledge, they shall deem that the most proper and desirable course for them to pursue. If a Convention be called at all, it must be called by the people themselves. No branch of this government is intrusted, nor ought to be intrusted, with any such power.

The calling of a Convention should be, as it is, the act of the people themselves, and not at all of the Legislature. This Legislature is not given any right even to exercise its own discretion as to calling a Convention. Whenever it



thinks a revision of the Constitution, that is, not merely one, or perhaps two amendments, but a number of different amendments in various portions of it, is necessary, then the Legislature is not required, in its discretion, nor directed, if it thinks it necessary, but is expressly and unequivocally commanded to submit the question to the people, to vote for or against a Convention to make such revision.

The language of the Constitution on this subject is as plain and explicit as any language can be. The following are its own words: "If at any time two-thirds of the Senate and Assembly shall think it necessary to revise and change the entire Constitution, then they shall recommend to the electors, at the next election for members of the Legislature, to vote for or against the Convention; and if it shall appear that a majority of the electors voting at such election have voted in favor of calling a Convention (then) the Legislature, at its next session thereafter, shall provide by law for calling, (that is, as some of the States have it—to provide for electing delegates) to a Convention, to be holden within six months after the passage of such law."

It will therefore be observed not only that all reasonable expedition must be had, but also that the question of expense belongs entirely to others, and not to us, to decide. Nor have we any right to conclude that the Legislature of next year will be profligate and provide for paying per diems to delegates, or otherwise incur any unnecessary or large expenses. Nor are we called upon even to express any opinion in favor of a Convention. Even if we were, as individuals, actually opposed to a Convention, still as the officers of this government, sworn to obey the Constitution, it is expressly made our duty to submit the question of calling a Convention to the people, provided only, we "think it necessary to revise and change the Constitution." To attempt to excuse ourselves or shun our plain duty, by talking about the the expense, or about any other remote branch of the subject which is intentionally removed beyond our consideration or control, and left to other tribunals to decide, would amount to a very evident neglect of what the Constitution requires us to do.

It is a wise provision in the Constitution not to permit the Legislature first required to act, to forever prevent its being revised and amended, by undertaking to decide when it will be judicious, and when it is not judicious, when it will be expensive and when it will be cheap, to call a Convention. So far from its being our duty to be governed by any such considerations, we are expressly notified, and in explicit language, that all such considerations are for the people themselves and for the next succeeding Legislature, and not for us, to decide.

#### CONCLUSION.

Now, Mr. President, your Committee have shown that, at the first annual session of the Legislature, and at every session from that day to this, without a single exception, this subject has engaged the continual attention of this branch of the government, and that not a single annual message has ever been delivered to the Legislature by any Governor who was elected to that office by the people, without containing earnest and seven times repeated recommendations in behalf of amendments to our Constitution, and at last, seeing most clearly that all other modes for Constitutional reform are idle and useless, even to discuss, the present Governor of our State urges the Legislature to no longer keep this question from the people. We have shown, also, that the popular branch of our Legislature long since, and when it was overwhelmingly Democratic, twice declared by an almost unanimous vote, in favor of leaving this question to the people.



We have also shown that in some of the older States, whose present Constitutions were prepared and adopted by our fathers, who had just concluded a seven years' revolutionary war, begun and fought for the very purpose of achieving the right to make and alter their own government at pleasure, we have shown that in such Constitutions they secured the right to the people to vote upon the question of a Constitutional Convention every seven years.

We, in this hitherto new and strange country, are now advanced in the eighth year since our hasty and exceedingly imperfect Constitution was adopted by only 12,061 votes in its favor. And the recklessness, extravagance, and profligacy, which has continually marked the career of this Government ever since its first organization, ought to be sufficient reasons of themselves to convince us all that there is something radically defective in the Constitution which has undertaken to confer, define, and control the exercise of all its powers. And since we now behold ourselves surrounded by over 100,000 electors, and more than 400,000 inhabitants—where at its adoption there were so few—it would seem to be an inexcusable and most inconsistent exercise of authority on our part, to any longer withhold from them the mere expression of their views concerning a question in which they are all as deeply interested as we can be, and concerning which it is even expressly provided that they alone, and not we, have the right to decide. Indeed, if we be fit to be here at all as their representatives, what can be more plainly our duty, under the present exigency in our affairs, than to desire them to give us the great advantage of their counsel, and to guide us by their advice and direction. And more especially does this seem to be our duty, since thousands of them are in every way our superiors, and since nearly all of them are as capable of acting prudently and judging wisely concerning the question, as we can be, who are, at best, only a small portion of themselves, and who will soon be again dissolved, and lost in their midst.

That no member has a right under the office he here holds, and under the extraordinary crisis now existing in our affairs, to vote against this measure, we do not dare to avow, but we may be permitted to predict that every member so voting ought certainly to be prepared to answer well before the people, whom he would thus seem, at least, to insult, by pretending to have more intelligence, more wisdom, and more prudence, than they all possess. Earnestly hoping, for our own sakes, as well as for the sake of our country, that not a vote will be cast against this measure at the present session of the Legislature, the Committee report the same back, without amendment, and unanimously recommend its immediate passage.

WM. J. SHAW, Chairman.  
D. R. ASHLEY,  
E. G. WAITE,  
B. D. WILSON,  
J. W. MANDEVILLE.

Mr. Cosby moved that 500 copies of the report be printed.

Mr. Merritt moved to amend by referring to Joint Committee on Printing, which was accepted.

Motion put and lost.

Mr. Carpenter moved that 500 copies be printed.

Mr. Coffroth moved that the report be referred to Committee on Printing.

Carried.

Mr. Walkup made the following report :

*Mr. President:*

The undersigned, to whom was referred Senate bill No. 36, an Act concerning the Board of Supervisors of Placer County, report the same to the Senate and recommend its passage without amendment.

JOS. WALKUP,  
C. WESTMORELAND.

Report accepted, and bill placed on general file.

On motion of Mr. Mandeville, the bill accompanying the report of Mr. Shaw, Chairman of the Select Committee, received this day, was made the special order for Friday, January 30th inst., at 12 o'clock M.

Mr. McCallum made the following report:

*Mr. President:*

The Committee on Contingent Expenses, to whom was referred a communication of the Sergeant-at-Arms concerning a room for the Judiciary Committee, having considered the same, report the following resolution, and recommend its adoption:

*Resolved*, That the Sergeant-at-Arms be authorized to contract for room 23 in Read's Building; *provided*, the rent for the same shall not exceed \$30 per month; the rent commencing after January 20th, 1857.

Report accepted, and resolution adopted.

Mr. Burnett made the following report:

*Mr. President:*

The Delegation from Yuba County, to whom was referred Assembly bill No. 26, entitled an Act supplementary to an Act entitled an Act to separate the office of Collector of Taxes from the office of Sheriff in the County of Yuba, approved April 27th, 1855, have had the same under consideration, and respectfully report in favor of its passage without amendment.

Report accepted, and bill placed on General File.

The following Document, without any accompanying communication, was announced by the President, and read:

Know all men by these presents, that we, the undersigned Pacific Express of the State of California as principal, and Edwin A. Rowe, D. Brigham, Jr., Charles C. Bowman, James G. Stebbins, Scl. Heydenfeldt, James Haworth, A. G. Rich-

ardson and Archibald Woods as sureties, are held and firmly bound unto Henry Bates, Treasurer of the State of California, in the sum of one hundred and twenty-four thousand dollars, for the payment whereof well and truly to be made, we do solemnly bind ourselves, our heirs, executors and administrators, firmly by these presents, signed and sealed with our respective seals, this the third day of January, A. D. one thousand eight hundred and fifty-seven.

The conditions of this obligation are such that whereas, under and by virtue of the Acts of the Legislature of the said State of California, entitled "An Act to Fund the Debt of the State," approved April 29th, A. D. 1851, and "An Act to Fund the Indebtedness of the State which has accrued or may accrue from April 29th, 1851, to Dec. 31st, 1852, inclusive, and to provide for the payment of the three per cent bonds," approved May 1st, 1852, and "An Act supplementary to an Act to Fund the Indebtedness of the State which has accrued or may accrue from April 29th, 1851, to Dec. 31st, 1852, inclusive, and to provide for the payment of the three per cent. bonds," approved May 1st, 1852, which supplementary Act was approved May 17th, A. D. 1853, and "An Act to Fund the Indebtedness of the State existing in the form of State Controller's warrants, drawn upon the Treasurer of the State between the 30th day of June, A. D. 1853, and the 1st day of July, A. D. 1855," approved March 16th, 1855, and "An Act to Fund the Indebtedness of the State now existing in the form of Controller's warrants drawn on the General Fund, or that may be outstanding on the 1st day of January, 1857, or warrants issued for indebtedness accruing prior to the 1st of January, 1857," approved April 19th, 1856—it became the duty of the Treasurer of the said State to make certain arrangements to pay the interest upon the Bonds of the State issued in pursuance of said Acts, when such interest should fall due, and said Treasurer being authorized by said Acts to make such contracts and arrangements as might be necessary for the payment of said interest, and the said Treasurer having contracted with the said Pacific Express for the payment, promptly, of the interest upon the funded debt of the said State, due and payable in the city of New York on the 1st day of July, A. D. 1857, as the coupons for the interest on said debt, payable in the said city of New York, shall be there presented. The said Pacific Express having contracted for the payment of said interest as aforesaid, at the office of said Pacific Express in the said city of New York, the interest so to be paid not to exceed the sum of one hundred and twenty-four thousand dollars, (\$124,000,) and the said Pacific Express having further contracted to publish or cause to be published in some newspaper of the city of New York, notice that said interest will be paid at the said office of the said Pacific Express, in said city, upon the presentation of the coupons therefor, on and after the said 1st day of July, A. D. 1857; such publication to be made in the manner prescribed by law. And the said Pacific Express having further contracted that the said coupons paid or caused to be paid by them as aforesaid, shall be delivered to the Treasurer of said State, at his office, within four months after the same are paid in the city of New York. And the said Pacific Express having contracted and agreed further, that they will justly and truly account with the Treasurer of said State for all coupons and moneys in their hands belonging to the said State, upon reasonable notice given them by the said Treasurer, and that they will deliver and pay over to the said Treasurer any and all coupons, moneys or property of the said State in their hands.

Now therefore, if the said Pacific Express shall well and truly perform, all and singular, the terms and stipulations so contracted for, on the part of said

Pacific Express, without default, then this obligation to be null and void, otherwise to remain in full force and virtue.

# PACIFIC EXPRESS,

By E. A. ROWE,

President and Agent.

COPY.

D. BRIGHAM, JR., [SEAL.]

CHAS. C. BOWMAN, [SEAL.]

JAMES G. STEBBINS, [SEAL.]

S. HEYDENFELDT, [SEAL.]

JAS. HAWORTH. [SEAL.]

A. G. RICHARDSON, [SEAL.]

ARCH. WOODS, [SEAL.]

On motion of Mr. McCallum, the document was referred to the Committee (Joint) on the Treasury.

## MESSAGE FROM THE ASSEMBLY.

*Mr. President:*

I am directed to inform the Senate that the Assembly, on the 24th inst., passed Assembly Bill No. 25, "An Act to amend an Act to incorporate the town of Eureka," approved April 18th, 1856.

W. CAMPBELL,

Clerk Assembly.

Jan. 26th, 1857.

Bill read first time, rule suspended, read a second time, and on motion of Mr. Cosby, was referred to Committee on Corporations.

Mr. Tilford introduced a Bill entitled "An Act to amend an act entitled an Act to regulate the settlement of the estates of deceased persons," passed May 1st, 1851, and the acts amendatory thereof, Compiled Laws, page 377, which was read first time, rule suspended, read a second time, and on motion of Mr. Tilford, was referred to the Judiciary Committee.

Mr. Chase introduced a Bill entitled "An Act to amend an Act to provide revenue for the support of the Government of this State," passed May 15th, 1854, which was read first time, rule suspended, read a second time, and on motion of Mr. Chase, referred to Finance Committee.

Mr. Chase introduced a Bill entitled "An Act to amend an act entitled an Act to incorporate the city of Nevada," approved April 19th, 1856, which was read first time, rule suspended, read a second time and placed on general file.

Mr. Cosby gave notice that, on to-morrow, he will introduce a bill to fix the salary of the District Attorney for the County of Siskiyou.



## GENERAL FILE.

Assembly bill No. 26 was taken up, read a third time, and passed.

Senate bill No. 36, an Act concerning the Board of Supervisors of Placer County, was taken up; rule suspended, bill considered engrossed; read a third time, and passed.

Mr. Shaw in the Chair.

Senate bill No. 34, an Act to authorize the Administrator and Administratrix of Archibald A. Ritchie, deceased, to sell the Real Estate of their Intestate, at private sale, was taken up, with amendments reported from Judiciary Committee this morning, and considered in Committee of the Whole.

Amendments adopted, and reported back to the Senate.

## IN SENATE.

Question being upon the adoption of the amendment, was taken, and carried, and, on motion of Mr. Merritt, the bill was considered engrossed, read a third time; and passed.

Mr. Carpenter gave notice that, at an early day, he will introduce a bill for Act concerning chattel mortgages.

Mr. Dosh presented a petition from citizens of Tehama County against the removal of the County seat of that County; which, on motion of Mr. Coffroth, was referred to the Senator from that County.

The hour having arrived for the consideration of the special order of the day, the Senate considered in Committee of the Whole the Act concerning Swamp and Overflowed Lands.

After some time spent in considering the bill and amendments of the Committee on Public Lands, rose and reported the same back to the Senate, together with the following amendment of the Committee of the Whole.

SECTION 5. Section 6 of said Act is hereby amended so as to read as follows: "If any person or persons purchasing lands, upon a credit of six months, as provided for in Section 5 of the Act which this amends, shall fail or neglect to pay the interest, as required by this Act, every month, or shall fail to reclaim at least one-half of the land so purchased, within the period of one year, such neglect or failure shall work a forfeiture of such lands, and the same shall be resold, as if no purchase had been made."

Amendment adopted.

On motion of Mr. Coffroth, the vote upon the adoption of the amendment to Section 5, was reconsidered, and the following substitute offered by him:

"SECTION 5. If any person or persons, purchasing lands after the passage

of this Act, upon a credit of six months, as provided for by Section 8 of this Act, shall fail or neglect to pay the principal and interest, within the term of six months from the date of the certificate of purchase, or shall fail or neglect to reclaim at least one-half of the land so purchased, within the period of one year, such neglect, or failure, shall work a forfeiture of such lands, and the same shall be resold, as if no purchase had been made."

Adopted.

Mr. Coffin moved that the Rule be suspended, the bill considered engrossed, and read a third time.

Lost.

On motion of Mr. Coffin's, the bill was then ordered engrossed.

Leave of absence was granted Mr. Carpenter for four days from to-day.

Leave of absence was granted Mr. Fiske for three days.

Mr. Tilford, Chairman of the Judiciary Committee, by leave made the following report:

*Mr. President:*

The Judiciary Committee have had under advisement, Senate Bill No. 20, An Act supplementary to "An Act concerning persons in County under sentence of Imprisonment," passed April 22, 1860, and report the same back, with the following amendments:

Amend the title, to read: "An Act concerning persons under Imprisonment."

Section 1. Strike out all after the enacting clause, and insert: "The Board of Supervisors in each county, shall have power, and they are hereby authorized, to cause persons in the County Jail under sentence of imprisonment, to labor upon any public or private work in the county,—the county receiving the benefit of the hire or labor."

"Sec. 2. When a person shall be imprisoned for non-payment of a fine, the imprisonment may extend to, but shall not exceed one day, for every two dollars of the fine, and the costs that may be due from the person imprisoned in the prosecution in which the fine was adjudged."

And recommend its passage. Also,

Assembly Bill No. 3, entitled an Act to amend an Act to regulate proceedings in civil cases, passed April 20, 1861 and recommend its passage, with the following amendment:

Amend by striking out from "whenever" to "process," inclusive. Insert after "the defendant" in the 6th line, "in a civil action."

F. TILFORD,

Chairman.

Mr. Crandall, Chairman of the Committee on Enrollment, made the following report:

*Mr. President:*

Your Committee on Enrollment have examined Senate Bill No. 2, an Act to

fix the time for holding the terms of the District Court of the 9th Judicial District of this State, and find the same correctly enrolled.

D. CRANDALL,  
Chairman.

Mr. Sullivan, one of the Committee on Engrossed Bills, made the following report :

The Committee on Engrossed Bills have examined Senate Bill No. 21, entitled an Act to fix the compensation of the County Judge and Supervisors of the county of Tehama.

Also, Senate Bill No. 23, entitled an Act for the relief of Jotham S. Marston, late Treasurer of Alameda county.

Also, Senate Bill No. 29, entitled an Act amendatory and supplementary to an Act entitled an Act to authorize the Board of Supervisors of Placer County to levy a Special Tax, approved March 11th, 1856.

Also, Senate bill No. 33, entitled an Act in addition to and explanatory of an Act for securing Liens to Mechanics and others, approved April 19th, 1856.

Also, Senate Bill No. 15, entitled an Act to fix the time for holding the Court of Sessions, County Court, and Probate Court, in the county of Tehama, and find the same correctly engrossed.

E. L. SULLIVAN,  
Chairman pro tem.

On motion of Mr. Coffroth, the Senate adjourned.

R. M. ANDERSON,  
President Senate.

Attest :

G. S. EVANS, Secretary Senate.

## IN SENATE.

TUESDAY, January 27, 1857.

Senate met pursuant to adjournment.

President in the chair.

Roll called.

Journal of yesterday read and approved.

### PETITIONS.

Mr. Tilford presented the petition of Charles C. Chapman, of San Francisco, for relief for support and maintenance of indigent sick in San Francisco, during the year 1854, which was referred to the Committee on Claims.

Mr. Burnett presented an account of Greenbaum and Bucki, of Sacramento, for sundry articles furnished the Senate during the session of 1856, which was referred to the Committee on Claims.

Mr. Sullivan, one of the Committee on Engrossed Bills, made the following report :

*Mr. President:*

The Committee on Engrossed Bills have examined Senate bill No. 16, entitled an Act to amend an Act entitled an Act to provide for the sale of Swamp and Overflowed Lands belonging to the State, approved April 28th, 1855.

Also, Senate bill No. 34, entitled an Act to authorize the administrator and administratrix of Archibald A. Ritchie, deceased, to sell the real estate of their intestate at private sale.

Also, Senate bill No. 36, entitled an Act concerning the Board of Supervisors of Placer County, and find the same correctly engrossed.

E. L. SULLIVAN,  
Chairman *pro tem*.

The following report was received from the Committee on Corporations:

*Mr. President:*

The Committee on Corporations, to whom was referred Assembly bill No. 25, an Act to amend an Act entitled an Act to incorporate the town of Eureka, report the same back without amendment and recommend its passage.

JAS. W. COFFROTH,  
Chairman.

Report accepted and bill placed on general file.

Mr. Tilford introduced a bill for an Act concerning the salary of the County Judge of the county of San Francisco, which was read first time, rules suspended, read a second time, and referred to the San Francisco Delegation.

Mr. Cosby introduced a bill for an Act to fix the Compensation of the District Attorney for the County of Siskiyou, and to repeal in part the first section of an Act entitled an Act to fix the Compensation of District Attorneys for the several counties of this State.

Read first time, rule suspended, read second time, and referred to Siskiyou Delegation.

The Report of the Committee on Contingent Expenses, relative to the employees of the Senate, was taken up, read, and on motion of Mr. Coffroth, laid on the table.



Mr. Tilford, Chairman of the Judiciary Committee, to whom was referred Senate bill No. 11, to Legalize certain Records in Solano County, reported the same back and recommended that it be referred to the Solano Delegation, which was so referred.

## GENERAL FILE.

Senate bill No. 16, an Act to amend an Act entitled an Act to provide for the Sale of Swamp and Overflowed Lands belonging to the State, approved April 28th, 1855, was taken up and read a third time. Omissions appearing in the engrossed bill, the Secretary was instructed to make the proper corrections.

Mr. Norman moved the recommitment of the bill to the Committee on Public Lands, with special instructions to strike out so much as relates to the sale on a credit of six months; upon which the ayes and noes were called for by Messrs. Norman, Mandeville and Merritt, and taken with the following result:

## AYES.

Messrs. Crandall, Mandeville, Merritt, Norman, Sullivan and Walkup—6.

## NOES.

Messrs. Burnett, Bynum, Chase, Coffroth, Cosby, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Goodwin, Johnson of Sacramento, Johnson of El Dorado, McCallum, McGee, Mesick, Soule, Taliaferro, Tilford, Westmoreland and Wilson—19.

So the motion was lost.

The question being on the final passage of the bill, the ayes and noes were called for by Messrs. Taliaferro, Cosby and Coffroth, and resulted as follows:

## AYES.

Messrs. Ashley, Bell, Burnett, Bynum, Chase, Coffroth, Cosby, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Goodwin, Johnson of Sacramento, Johnson of El Dorado, McCallum, McGee, Mesick, Shaw, Soule, Sullivan, Taliaferro, Tilford, Walkup, Westmoreland and Wilson—24.

## NOES.

Messrs. Mandeville, Merritt and Norman—3.

So the bill was passed.

Senate bill No. 21, an Act to fix the compensation of the County Judge and Supervisors of the County of Tehama, was read a third time and passed.

Senate bill No 33, an Act in addition to and explanatory of the Act for securing of liens to Mechanics and others, approved April 19th, 1856, was read a third time and passed.

Mr. Mandeville in the Chair.

Senate bill No. 4, an Act for the better protection of Mining Interests, having been made the special order of the day for 12 o'clock M., and the hour having arrived, was read a third time.

Question being upon the final passage of the bill, the ayes and noes were called for by Mr. Merritt, Ferguson of Sierra and Crandall, with the following result:

AYES.

Messrs. Burnett, Chase, Crandall, Cosby, Ferguson of Sierra, Goodwin, Johnson of El Dorado, Mesick, Sullivan and Wilson—10.

NOES.

Messrs. Ashley, Bynum, Coffroth, Dosh, Ferguson of Sacramento, Johnson of Sacramento, McCallum, McGee, Mandeville, Merritt, Norman, Soule, Taliaferro, Tilford, Waikup, Westmoreland—16.

So the bill was rejected.

Mr. McCallum changed his vote from aye to no, and gave notice that he would move a reconsideration of the vote on to-morrow.

Senate Bill No. 19, "An Act concerning the receipts and the expenditures of the State," was read a third time and passed.

Senate Bill No. 23, "An Act for the relief of Jotham S. Marston, late Treasurer of Alameda county," was read a third time.

Mr. Burnett moved that the bill be recommitted, with instructions to strike out all that part of section second that instructs the Board of Supervisors to give said Marston credit for the sum of \$7,156 44-100, which was lost.

Mr. McCallum offered the following resolution:

*Resolved*, That the Bill be committed to the Judiciary Committee, with instructions to inquire whether, in the opinion of the Committee assuming the facts to exist as set forth by the Committee on Claims, if said Treasurer, in their opinion is legally liable; then to inquire into the expediency of reporting a general statute to apply to all similar cases.

President in the Chair.

Mr. Ashley offered the following substitute:

*Resolved*, That the Bill be re-committed to the Committee on Claims with instructions to strike out the word "directed" and insert "permitted."

Adopted.

So the Bill was recommitted to the Committee on Claims with the above special instructions.

Senate Bill No. 13, "An Act to limit the time for prosecuting claims against counties, and for receiving payment for the same," reported from Judiciary Committee yesterday, was taken up and considered as in Committee of the Whole. After some time so spent, the committee reported the amendments of the Judiciary Committee.

Concurred in.

#### IN SENATE.

The question being on the adoption of the amendments, was taken up and carried.

Mr. Walkup offered the following amendment:

Section 4th. All warrants not demanded and drawn from the County Auditors within one year from the date of its issuance, shall forfeit to the county, and be cancelled, under the direction of the Board of Supervisors.

Adopted.

On motion of Mr. Walkup, the Bill was ordered engrossed.

Mr. Burnett by leave, made the following report:

*Mr. President:*

The Committee on Claims, to whom was referred Senate Bill No. 23, entitled An Act for the relief of Jotham S. Marston, late Treasurer of Alameda County, with special instructions, have made the amendment proposed, by striking out the word "directed," in the second line of section second, and inserting the word "permitted," in its stead.

W. C. BURNETT,  
Of Committee on Claims.

Report accepted.

On motion of Mr. Shaw, the amendment was adopted, rule suspended, and bill considered engrossed.

The question being, "Shall the bill be read a third time and passed?" the ayes and noes were called for by Messrs. Norman, Walkup and Cosby, and taken with the following result:

AYES.

Messrs. Ashley, Bell, Burnett, Bynum, Chase, Cosby, De la Guerra, Ferguson, of Sacramento, Goodwin, Johnson, of Sacramento, Mesick, Shaw, Soule, Sullivan, Tilford, Westmoreland and Wilson—17.

## NOES.

Messrs. Crandall, Dosh, Johnson, of El Dorado, Merritt, Norman and Walkup—6.

So the Bill was passed.

Mr. Coffroth, by leave, gave notice that at an early day he will introduce a Bill for an Act entitled an Act to legalize the present indebtedness of the State of California, and to provide for its payment.

Mr. Crandall, Chairman of the Committee on Enrolled Bills, made the following report :

*Mr. President:*

Your Committee on Enrollment have examined Senate Bill No. 22, an Act to repeal an act entitled an Act to incorporate the town of El Dorado, approved April 16th, 1855, and find the same correctly enrolled.

D. CRANDALL,  
Chairman.

Mr. Ferguson of Sacramento, gave notice that at an early day he will introduce a Bill for an Act to amend an Act fixing the majority of males and females.

Also, an Act to amend an Act to regulate proceedings in civil cases in the Courts of Justice of this State.

Mr. Ferguson of Sacramento, Chairman of the Committee on Public Printing, made the following report:

*Mr. President:*

The Committee on Public Printing, to whom was referred the report of Special Committee on the Act relative to submitting the question of a Constitutional Convention to the people, have had the same under consideration and recommend that five hundred copies of the same be printed.

On motion of Mr. Walkup, the Senate adjourned.

Approved January 28th, 1857.

R. M. ANDERSON,  
President Senate.

Attest:

GEORGE S. EVANS, Secretary Senate



## IN SENATE.

WEDNESDAY, January 28th, 1857.

Senate met pursuant to adjournment.

President in the Chair.

Roll called.

Journals of yesterday read and approved.

The following report was received from the Committee on Engrossed Bills:

*Mr. President :*

The Committee on Engrossed Bills have examined Senate bill No. 13, entitled an Act to limit the time for presentations of Claims against Counties, and find the same correctly engrossed.

E. L. SULLIVAN,

Chairman *pro tem*.

Mr. Tilford presented the petition of Doctors H. and W. P. Gibbons, praying relief for expenses of sick in State Marine Hospital, which was referred to Committee on Claims.

Mr. Tilford made the following report:

*Mr. President :*

The Judiciary Committee recommend the passage of Assembly Concurrent Resolution relative to the official bonds of the State Treasurer, with the following amendments, namely, strike out all between the words "under" and "1850" inclusive.

F. TILFORD,

Chairman.

On motion of Mr. Mandeville, the rule was suspended and the resolution considered, the amendments of Committee concurred in, and the resolution as amended adopted.

The San Francisco Delegation, to whom was referred a bill for an Act concerning the Salary of the County Judge of the County of San Francisco, have had the same under consideration, and recommend its passage.

F. TILFORD,

Of San Francisco Delegation.

On motion of Mr. Tilford, the rules were suspended, bill considered engrossed read third time and passed.

Mr. Dosh made the following report:

*Mr. President :*

The undersigned, to whom were referred sundry petitions relative to the removal of the county seat of Tehama county, having carefully examined the same, beg leave to report, that the first petition, introduced into this House on the 16th January inst., prays that an Act may be passed, authorizing the holding of a special election in the county of Tehama, so that the qualified electors of said county may be afforded the opportunity of indicating through the ballot-box, their wishes relative to the location of the county seat of said county of Tehama. The second petition, signed by about an equal number of citizens as the first, and which was introduced into this House on the 26th January inst., prays that the county seat of said county may be permitted to remain as at present fixed by law, at the town of Tehama, and protests against any removal thereof by act of this Legislature.

From this it will be seen that these citizens, whose names are signed to the second petition, protest against such action on the part of this House as the first petitioners do not pray for.

Hence the undersigned, with his views relative to his duties as a Representative cannot do less than introduce a bill in accordance with the prayer of those citizens of the county of Tehama, whose petition was introduced into this House on the 16th of January, inst., and which bill is herewith respectfully submitted.

S. H. DOSH.

Report accepted.

The following message was received from the Assembly:

*Mr. President :*

I am directed to inform the Senate that the Assembly, on yesterday, passed Senate Bill No. 15, "An Act to fix the time of holding the Court of Sessions, County Court and Probate Court, in the county of Tehama."

Also Assembly Bill No. 63, "An Act to fix the compensation of the County Judge of Napa county; the County Judge of Yolo county, and the County Judge and District Attorney of the county of Humboldt.

Also Assembly Bill No. 24, "An Act to legalize and confirm the election of the Board of Trustees of the town of Eureka, in the county of Humboldt."

Also Assembly Bill No. 44, "An Act relating to the officers of San Mateo county, and prescribing their duties.

Respectfully,

W. CAMPBELL,

Clerk of Assembly.

JANUARY 28, 1857.

Assembly Bill No. 63, "An Act to fix the compensation of the County Judge of Napa county, the County Judge of Yolo county, also the County Judge and District Attorney of the county of Humboldt, was read first and second times, and referred to the delegations from the counties of Napa, Yolo and Humboldt.

Assembly Bill No. 24, "An Act to legalize and confirm the election of the Board of Trustees of the town of Eureka, in the county of Humboldt," was read first and second times and referred to Humboldt delegation.

Assembly Bill No. 44, "An Act relating to the officers of San Mateo county, and prescribing their duties," was read first and second times, and referred to San Francisco delegation.

Mr. Norman introduced "An Act to amend an Act entitled an Act to protect owners of growing crops, buildings, and other improvements in the Mining districts of this State," approved April 25th, 1855, which was read first and second times and referred to Committee on "Mines and Mining Interests."

Mr. Ferguson introduced a bill for "An Act to amend an Act entitled an Act fixing the age of majority of males and females in this State," passed May 10th, 1854, which was read first and second times, and referred to Judiciary Committee.

Mr. Johnson, of El Dorado, introduced a bill for an Act concerning Roads and Highways, which was read first and second times, and referred to the Committee on Roads and Highways.

Mr. Bell introduced a bill for an Act for the relief of Richard Cole, which was read first and second times, and referred to the Committee on Claims.

Mr. Tilford introduced a bill for an Act to authorize the Controller of State to issue duplicate interest Coupons of the State of California to Mebries, Driesenberg & Co., of San Francisco, which was read first and second times, and referred to the Committee on Claims.

Mr. Ferguson, of Sacramento, by leave gave notice that at an early day he will introduce a bill to amend an Act to provide for the Construction of the State Capitol, approved April 18th, 1856.

Senate bill No. 49, reported by Mr. Dosh this morning, an Act to provide for taking the sense of the People of Tehama County upon the question of removal of the county seat thereof from the town of Tehama to the town of Red Bluffs, was taken up, read a first and second time, and referred to the Committee on Counties and County Boundaries.

On motion of Mr. Mandeville, the report of the Committee on Printing relative to printing the report of Special Committee on the revision of the Constitution was taken up.

Mr. Coffroth moved to amend by striking out "500" and inserting "480."

Accepted.

The report, as amended, was then adopted, and 480 copies were ordered to be printed.

On motion of Mr. McCallum, the notice which he gave yesterday, "That he would, on to-morrow, move a reconsideration of the vote on the bill relative to the

better protection of mines and mining interests," was made the special order for Wednesday, February 11th next, at 12 o'clock M.

Mr. Cosby offered the following resolution:

*Resolved*, the Assembly concurring, That the State Treasurer is instructed and hereby directed, out of any cash in the State Treasury, or under his control as State Treasurer belonging to the General Fund, to pay, according to the date of their presentation for payment, as indorsed thereon, all Controller's Warrants issued since January 1st, 1857, legally drawn for the payment of indebtedness which has accrued since January 1st, 1857.

Mr. Mandeville moved that the resolution lay on the table, which was lost.

Mr. Merritt moved to strike out the word "presentation" and insert "registration," which was lost.

The question being upon the adoption of the original resolution, Messrs. Mandeville, Norman and Soule called for the ayes and noes, which was taken with the following result:

AYES.

Messrs. Ashley, Bell, Bynum, Chase, Coffroth, Crandall, Cosby, Ferguson of Sacramento, Ferguson of Sierra, Goodwin, Johnson of El Dorado, McCallum, Mesick, Soule, Sullivan, Taliaferro, Tilford and Westmoreland—18.

NOES.

Messrs. Burnett, De La Guerra, Dosh, Mandeville, Merritt, Norman, Walkup and Wilson—8.

So the resolution was adopted.

Mr. McCallum in the Chair.

Mr. Ferguson of Sacramento offered the following resolution:

*Resolved*, That the Committee on the Judiciary be instructed to inquire of the Justices of the Supreme Court whether the provisions of the Act providing for the appointment of a Reporter of the Supreme Court, and to define his duties and compensation, approved April 19th, 1856, have been complied with by the Reporter.

Adopted.

Mr. Ashley offered the following resolution:

*Resolved*, That the Controller of the State is hereby authorized to draw his warrant in favor of James D. Potter for the sum of two hundred and sixty-one



dollars, for services rendered in writing up the Journals of the Senate for the year 1856.

Accepted and referred to the Committee on Claims.

Mr. Bynum gave notice that, at an early day, he will introduce a bill entitled an Act concerning County Judges.

On motion of Mr. Taliaferro, the report of the Committee on Contingent Expenses of the Senate, relative to employees of the Senate, was taken from the table.

Mr. Coffroth moved to amend by striking out "four clerks" and inserting "six clerks."

Upon which the ayes and noes were called for by Messrs. Norman, Walkup and Westmoreland, and taken with the following result:

#### AYES.

Messrs. Bell, Bynum, Chase, Coffroth, Crandall, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Merritt, Mesick, Soule, Taliaferro and Westmoreland—16.

#### NOES.

Messrs. Burnett, McCallum, Mandeville, Norman, Shaw, Walkup and Wilson—7.

So the amendment was adopted.

The resolution as amended was then adopted.

The further resolution of the Committee relative to pages, watchmen and porters, was then considered.

Mr. Taliaferro moved to amend by striking out "two pages" and inserting "three pages;" strike out "two porters" and insert "three porters."

Mr. Shaw called for a division of the question.

The question being with reference to the amendment as to the number of pages, the ayes and noes were called for by Messrs. Coffroth, Taliaferro and Norman, and taken, with the following result:

#### AYES.

Messrs. Bell, Burnett, Bynum, Chase, Coffroth, Crandall, De La Guerra,

Dosh, Ferguson of Sacramento, Johnson of Sacramento, Johnson of El Dorado, Merritt, Soule, Taliaferro and Westmoreland—15.

NOES.

Messrs. Ashley, McCallum, Mandeville, Mesick, Norman, Shaw, Tilford, Walkup and Wilson—9.

So the amendment was adopted.

The question as to the amendment relative to the porters was then considered.

Mr. Walkup moved to lay the amendment on the table, which was lost.

The question being on the adoption of the amendment, the ayes and noes were called for by Messrs. Walkup, Norman and Mandeville, and taken, with the following result :

AYES.

Messrs. Bell, Bynum, Chase, Coffroth, Crandall, Dosh, Ferguson of Sacramento, Johnson of Sacramento, Johnson of El Dorado, Merritt, Soule, Taliaferro and Westmoreland—13

NOES.

Messrs. Ashley, Burnett, De La Guerra, McCallum, Mandeville, Mesick, Norman, Shaw, Tilford, Walkup and Wilson—11.

So the amendment was adopted.

The resolution as amended was then adopted.

Mr. Chase moved the reconsideration of the vote by which the Resolutions were adopted.

Mr. Dosh moved the indefinite postponement of the motion to reconsider, which was carried.

So the Senate refused to reconsider.

Mr. Tilford, Chairman of the Judiciary Committee, made the following report, to wit :

*Mr. President:*

The Judiciary Committee, in obedience to a resolution of the Senate, report herewith a bill for an Act to authorize persons to change their names. The provisions of the bill have been carefully considered, and the Committee feel confident that the passage of it will conduce to the public welfare.

One of the most direct and beneficial results attained by the proposed law will be to save the time and expense consequent on the special legislation in passing acts to change the names of individuals.

F. TILFORD,  
Chairman.

Report accepted.

Bill read first time—rule suspended ; read a second time, and placed on general file.

Mr. Crandall, Chairman of the Committee on Enrolled Bills, made the following report :

*Mr. President :*

Your Committee on Enrollment have examined Senate Bill No. 15, an Act to fix the time of holding the Court of Sessions, County Court, and Probate Court, in the county of Tehama, and find the same correctly enrolled.

D. CRANDALL,  
Chairman.

GENERAL FILE.

The following Message was received from the Assembly :

*Mr. President :*

I am directed to inform the Senate, that the Assembly, on yesterday adopted a concurrent resolution relative to Mail Routes in California.

Also, passed Senate Bill No. 22, an Act to repeal an Act entitled an Act to incorporate the town of El Dorado, approved April 16th, 1855.

W. CAMPBELL,  
Clerk of Assembly.

January 27th, 1857.

The concurrent resolution relative to certain Mail Routes in California was read, and on motion concurred in.

Senate Bill No. 13, an Act to limit the time for presentation of claims against counties, was then taken up.

Title amended—read a third time and passed.

Senate Bill No. 41, "An Act to amend an Act entitled an Act to Incorporate the city of Nevada," approved April 19th, 1856, was read, rule suspended, considered engrossed, read a third time and passed.

Senate Bill No. 20, "An Act supplementary to an Act concerning persons in custody under sentence of imprisonment," passed April 22d, 1850, was taken up with amendments from the Judiciary Committee, and considered in Committee of

the Whole—amendments adopted, and reported to the Senate as amended in Senate.

Question being, shall the amendments of the Committee of the Whole be concurred in, was put and carried.

Mr. Ashley moved that the rules be suspended, the bill considered engrossed, read a third time and placed upon its final passage.

Mr. Burnett moved a call of the House, which was lost.

Question recurring upon the motion of Mr. Ashley to consider the bill engrossed, was put and carried.

So the bill was considered engrossed, read a third time and passed.

Assembly Bill No. 3, "An Act to amend an Act to regulate proceedings in civil cases," passed April 29th, 1851, was taken up with amendments of Judiciary Committee. Considered in Committee of the Whole, amendments adopted, and reported back to the Senate with the amendments.

In Senate, amendments of the Committee of the Whole concurred in.

Bill read a third time and passed.

Assembly Bill No. 25, "An Act to amend an act entitled an Act to incorporate the town of Eureka," approved April 18th, 1856, was read a third time and passed.

On motion of Mr. De La Guerra, the Senate adjourned.

Approved Jan. 29th, 1857.

R. M. ANDERSON,  
President of Senate.

Attest:

GEO. S. EVANS,  
Secretary of Senate

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IN SENATE.

THURSDAY, January 29th, 1857.

Senate met pursuant to adjournment.

President in the chair.

Roll called.

Journal of yesterday read and adopted.



Mr. Merritt in the chair.

Mr. Coffroth rose to a question of privilege—stating that the Democratic State Journal of this morning credits to Mr. Bell a speech made upon the Swamp Land bill some days since, which he, Mr. Coffroth, denies having been made by Mr. Bell during the debate.

Mr. Shaw made the following Report :

*Mr. President:*

The San Francisco Delegation, to whom was referred the Act relating to the Officers of San Mateo County, and prescribing their duty, report that they have considered the same, and although the last section is not necessary, they recommend its passage without amendment.

WM. J. SHAW,  
Of the Delegation.

The rule was suspended, bill read a third time, and passed.

Mr. Tilford introduced a bill for an Act to authorize the present Sheriff of San Francisco County to enforce the payment of Delinquent Taxes, and to legalize the Assessments and Rates of Taxation.

Read first time, rule suspended, read a second time and referred to Judiciary Committee.

On motion of Mr. Ashley, leave of absence was granted Mr. McCallum for three days, for the purpose of taking, as a member of the Joint Committee concerning the State Treasurer, the testimony of certain persons in El Dorado County, whose attendance cannot be now secured at Sacramento.

Mr. Bell gave notice that on a convenient day he will introduce a bill providing for the establishment of the first day of the week as a day of rest from all secular employments.

#### GENERAL FILE.

Senate Bill No 50, "An Act to authorize persons to change their names," was taken up and ordered to be engrossed.

#### SPECIAL ORDER.

The hour having arrived for the consideration of the special order of the day, Senate Bill No. 6 "An Act to amend an act entitled an Act to regulate the Interest of money," passed March 13th, 1850, was taken up.

Mr. McCallum moved the indefinite postponement.

Mr. Dosh called for the previous question, which was put and carried.

The question being "shall the main question now be put," was put and the Bill was indefinitely postponed.

Mr. Ashley moved a reconsideration of the vote just taken indefinitely postponing the Bill.

Mr. Westmoreland moved to indefinitely postpone the motion to reconsider, which was put and carried.

Mr. Mandeville, by leave, introduced a Bill for an Act to appropriate \_\_\_\_\_ dollars for the payment of salaries of officers and attachées of the Senate, which was read first time, rule suspended, read a second time and referred to Committee on Contingent Expenses with instructions to report on to-morrow.

Mr. Coffroth, by leave, introduced a Bill for an Act to legalize the present indebtedness of the State of California and to provide for its payment, which was read first time, rule suspended, read a second time and, on motion of Mr. Shaw, was referred to a Special Committee of nine.

Mr. Ferguson introduced a Bill for an Act to grant the right to construct a bridge across the Sacramento river, between the city of Sacramento and the town of Washington, to certain persons therein named, which was read first time, rule suspended, read a second time and referred to Sacramento and Yolo Delegations.

Mr. Bynum made the following report:

*Mr. President:*

Your Special Committee, to whom was referred Assembly Bill No 63, entitled "An Act to fix the compensation of the County Judge of Napa county, the County Judge of Yolo county, and the County Judge and District Attorney of the county of Humboldt," have had the same under consideration, and respectfully recommend the passage thereof.

S. BYNUM,  
Chairman.

Report accepted and bill placed on general file.

Mr. Crandall made the following report:

*Mr. President:*

Your Committee on Enrollment have this day presented to his Excellency the Governor, the following bills:

An Act to fix the time for holding the Court of Sessions, County Court and Probate Court in the County of Tehama.

An Act to repeal an Act entitled an Act to incorporate the town of Dorado, approved April 16, 1855.

An Act to fix the time for holding the terms of the District Court of the Ninth Judicial District of this State.

D. CRANDALL,  
Chairman.

Mr. Taliaferro moved that 240 copies of Senate bill No. 53, introduced this morning by Mr. Coffroth, be printed.

Lost.

Mr. Ferguson of Sacramento, by leave, introduced a bill for an Act to authorize the Administrators of the Estate of William Knight, deceased, to convey certain lands therein named.

Read first time, rule suspended; read a second time, and referred to the Judiciary Committee.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly, on to-day, adopted Senate concurrent resolution relative to the State Treasurer's paying warrants drawn since 1st January, 1857.

W. CAMPBELL,  
Clerk.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly have passed Assembly Bill No. 60, "An Act to amend an Act entitled an Act to Fund the Debt of the county of Napa, and provide for the payment of the same," approved April 19th, 1856.

Also Assembly Bill No. 70, "An Act concerning the office of County Recorder of the county of Sonoma.

Respectfully,

W. CAMPBELL,  
Clerk Assembly.

Jan. 29th, 1857.

Assembly Bill No. 60, "An Act to amend an Act entitled an Act to Fund the Debt of the county of Napa, and provide for the payment of the same," was read first time, rule suspended, read a second time and referred to Napa delegation.

Assembly Bill No. 70, "An Act concerning the office of County Recorder of the county of Sonoma," was read first time, rule suspended, read a second time and referred to Sonoma delegation.

Mr. Melony made the following report:

*Mr. President:*

The Committee on Engrossed Bills have examined Senate Bill No. 42, entitled "An Act concerning the Salary of the County Judge of the county of San Francisco," and find the same correctly engrossed.

A. R. MELONY,

Chairman.

On motion of Mr. Mandoville, the Senate adjourned.

Approved, January 30th, 1857.

R. M. ANDERSON,

President Senate.

Attest:

GEO. S. EVANS, Secretary Senate.

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## IN SENATE.

FRIDAY, January 30, 1857.

Senate met pursuant to adjournment.

President in the chair.

Roll called.

Journals of yesterday read and approved.

The President announced the following Special Committee, to whom was referred Senate bill No. 53, an Act to legalize the present indebtedness of the State of California, and to provide for its payment:

Messrs. Coffroth, Mesick, Shaw, Sullivan, Ashley, Mandoville, Ferguson of Sacramento, McCallum, and Walkup.

## PETITIONS.

Mr. Tiltford presented the petition of James Smiley for relief, which was referred to the Committee on State Prison.

Mr. Ashley made the following report:

*To the Senate:*

The Committee on Contingent Expenses report Senate bill No. 52 an Act to



appropriate ——— dollars for payment of Salaries of Officers and Attaches of Senate, and recommend that "3653" be inserted in the blank.

D. R. ASHLEY,  
Of the Committee.

On motion of Mr. Mandeville, the rules were suspended, the amendment of Committee was adopted, bill read third time, and passed.

Mr. Tilford made the following report:

*Mr. President:*

The Judiciary Committee, to whom was referred Senate bill No. 45, entitled an Act to amend an Act entitled an Act fixing the Age of Majority of Males and Females in this State, passed May 10th, 1854, have had the same under consideration, and beg leave to report the same back to the Senate, and recommend its passage.

Also, Senate bill No. 51, entitled an Act authorizing the present acting Sheriff of the City and County of San Francisco to enforce the payment of delinquent taxes, and to legalize the assessments and rate of taxation thereof, have considered the same, and recommend its passage.

F. TILFORD,  
Chairman.

Report accepted, and bills placed on the general file.

Mr. Melony made the following report:

*Mr. President:*

The Committee on Engrossed Bills have examined Senate bill No. 20, entitled an Act concerning Persons under Sentence of Imprisonment.

Also, Senate bill No. 41, entitled an Act to Incorporate the City of Nevada, approved April 19th, 1856, and

Also, Senate bill No. 50, entitled an Act to authorize Persons to Change their Names, and find each of said bills correctly engrossed.

A. R. MELONY,  
Chairman.

Mr. Cosby made the following report:

*Mr. President:*

The Senator to whom was referred Senate Bill No. 43, An Act to fix the Compensation of the District Attorney for the County of Siskiyou, and to repeal in part the first section of an Act entitled "An Act to fix the Compensation of District Attorneys for the several Counties of this State," passed May 4th, 1855,—has had the same under consideration, and reports it without amendment, and recommends its passage.

JOHN D. COSBY.

Report accepted, and bill placed on General File.

Mr. Cosby made the following report:

*Mr. President :*

The Senator to whom was referred Assembly Bill No. 24, entitled An Act to legalize and confirm the Election of the Board of Trustees of the Town of Eureka, in the County of Humboldt, reports the same back without amendment, and recommends its passage.

JOHN D. COSBY.

Report accepted and bill placed on the general file.

#### INTRODUCTION OF BILLS.

Mr. Ashley introduced a bill for An Act supplementary to, and to amend, "An Act concerning the Debt and Current Expenses of the County of Monterey, and to provide for the Funding and the Payment of the same," approved April 19th, 1856.

Read first time, rule suspended, read second time, and referred to the Monterey Delegation.

Mr. Bynum introduced a bill for An Act concerning County Judges.

Read first time, rule suspended, read second time, and referred to Judiciary Committee.

#### GENERAL FILE.

Assembly Bill No. 63, An Act to fix the Compensation of the County Judge of Napa County, County Judge of Yolo County, and the County Judge and District Attorney of the County of Humboldt, was considered in Committee of the Whole, amended, reported back with amendments, amendments concurred in by the Senate, and bill read a third time and passed.

Senate Bill No. 50, An Act to authorize persons to Change their Names, was read a third time and passed.

Senate Bill No. 51, An Act to authorize the present acting Sheriff of San Francisco County to enforce the payment of Delinquent Taxes, and to legalize the assessments and rate of taxation thereof.

On motion of Mr. Shaw, was placed at the foot of the General File.

Senate Bill No. 45, An Act to amend an Act entitled "An Act fixing the age of Majority of Males and Females in this State," passed May 10th, 1854.

On motion of Mr. Shaw, was placed at the foot of the General File.

Senate Bill No. 43, An Act fixing the Compensation of the District Attorney for the County of Siskiyou, and to repeal in part the first section of an Act

entitled "An Act to fix the Compensation of District Attorneys for the several Counties of the State."

Ordered engrossed for a third reading.

Assembly Bill No. 24, an Act to legalize and confirm the election of the Board of Trustees of the town of Eureka, in the county of Humboldt, was read a third time, and passed.

The following Message was received from the Assembly :

*Mr. President :*

I am directed to inform the Senate, that the Assembly on yesterday passed Senate Bill No. 34, an Act authorizing the Administrator and Administratrix of Archibald A. Ritchie, deceased, to sell the real estate of their Intestate at private sale, with amendments thereto, and ask the concurrence of the Senate.

W. CAMPBELL,

Clerk Assembly.

Bill taken up, and amendments concurred in.

The following Message was received from the Assembly :

*Mr President :*

I am directed to inform the Senate, that the Assembly on yesterday passed Assembly Bill No. 80, an Act to fix the compensation of the County Judge and District Attorney for Stanislaus, and the District Attorney of Napa county.

Also, Assembly Bill No. 46, an Act to amend an Act supplementary to an Act approved April 20th, 1852, entitled an Act to provide for funding the debt of San Joaquin county, for the payment of interest thereon, and for the general liquidation of the debt, approved April 19th, 1852.

Also, have concurred in Senate amendments to Assembly Bill No. 3, an Act to amend an Act to regulate proceedings in civil cases, passed April 29th, 1851.

Also have adopted Assembly concurrent resolution relative to the pay of U. S. Army officers in the Pacific Division.

W. CAMPBELL,

Clerk Assembly.

Assembly bill No. 80, an Act to fix the Compensation of the County Judge and District Attorney for Stanislaus and the District Attorney of Napa County.

Read first time, rule suspended; read a second time and referred to the Delegation from Stanislaus and Napa Counties.

Assembly bill No. 46, an Act supplementary to an Act approved April 20th, 1852, entitled an Act to provide for funding the debt of San Joaquin County, for the payment of the interest thereon, and for the general liquidation of the debt, approved April 19th, 1852.

Read first time, rule suspended; read a second time and referred to the Delegation from San Joaquin County.

Assembly concurrent resolution, relative to the pay of U. S. Army Officers in the Pacific Division, was taken up and read.

Mr. Dosh moved that the resolution be indefinitely postponed.

Mr. Walkup moved its reference to the Committee on Federal Relations.

Adopted.

Mr. Carpenter, by leave, introduced a bill for an Act concerning Chattel Mortgages in this State.

Read first time, rule suspended, read a second time, and referred to the Judiciary Committee.

On motion of Mr. Taliaferro, the Secretary was instructed to request the Assembly to return to the Senate, Assembly bill No. 44, an Act relating to the Officers of San Mateo County, and prescribing their duties, which passed the Senate on the 29th inst., and was reported to the Assembly.

On motion of Mr. Melony, Assembly bill No. 19, an Act to fix the Compensation of the District Attorney of Contra Costa County, was taken from the table, read a third time, and passed.

The hour having arrived for the consideration of the special order of the day, Senate bill No. 1, an Act recommending to the Electors to vote for or against a Convention to revise and change the Constitution of this State, was taken up.

Mr. Shaw moved that it be made the special order of the day for Tuesday, February 13th, at 12 o'clock, M.

Upon which the ayes and noes were demanded by Messrs. Coffroth, Merritt and Sullivan, and taken, with the following result :

#### AYES.

Messrs. Ashley, Bynum, Bell, Cosby, Crandall, Carpenter, Chase, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Johnson of Sacramento, Johnson of El Dorado, Mandeville, Melony, Merritt, Mesick, Shaw, Soule, Sullivan, Tilford, Waite and Wilson—23.

#### NOES.

Messrs. Burnett, Coffroth, De La Guerra, Norman, Taliaferro and Walkup—6.

So the motion prevailed and the bill was made the special order of the day for Tuesday, February the 13th, at 12 M.

Mr. Melony, Chairman of the Committee on Engrossed Bills, made the following report:



*Mr. President:*

The Committee on Engrossed Bills have examined and found correctly engrossed Senate bill No. 52, an Act to appropriate \$3,653 for the payment of salaries of Officers and Attaches of the Senate.

A. R. MELONY,  
Chairman.

On motion of Mr. Johnson of El Dorado, the Senate adjourned.

Approved January 31, 1857.

R. M. ANDERSON,  
President Senate.

Attest:

GEO. S. EVANS, Secretary Senate.

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## IN SENATE.

SATURDAY, January 31st, 1857.

Senate met pursuant to adjournment.

President in the chair.

Roll called.

Journal of yesterday read and approved.

Mr. Coffroth presented the petition of James Penny, praying for relief.

Received and referred to Committee on Claims.

Mr. Johnson, of Sacramento, presented a certificate of Brigadier General Winn, relative to the claims of Maj. G. D. Hall, Maj. John S. Fowler, and Maj. John G. Cleal, for services in the second El Dorado Expedition against the Indians.

Referred to the Committee on Claims.

Mr. Bynum, Chairman of the Committee on Counties and County Boundaries, made the following Report :

*Mr. President :*

Your Committee on Counties and County Boundaries have had under consideration Senate bill No. 49, entitled an Act to provide for taking the sense of the

people of Tehama County upon the question of a removal of the county seat thereof from the town of Tehamma to the town of Red Bluffs, and respectfully recommend the passage of the same without amendment.

S. BYNUM,  
Chairman of Committee.

Report accepted, and bill placed on General File.

Mr. Johnson of Sacramento, Chairman of the Committee on Finance, made the following report:

*Mr. President:*

Your Committee, to whom was referred Senate bill No. 38, have had the same under consideration, and report it back, without recommendation, for the consideration of the Senate.

JOSIAH JOHNSON,  
Chairman.

Report accepted, and bill placed on general file.

Mr. Coffroth, Chairman of the Special Committee of *nine*, made the following report.

*Mr. President:*

The Special Committee, to whom was referred an Act to legalize the present indebtedness of the State of California, and to provide for its payment, respectfully request that 240 copies of said bill be printed.

JAMES W. COFFROTH,  
Chairman.

Report adopted, and 240 copies of the bill ordered printed.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly, on yesterday, passed—

Assembly Bill No. 25, An Act to provide for Funding the Debt of Yuba County.

Also, Assembly Bill No. 33, An Act to define the Boundary Lines of Tehama County.

Also, Assembly Bill No. 35, An Act to cede certain Property in the Town of Eureka.

Also, Assembly Bill No. 36, An Act to fix the Salary of the County Judge of Placer County.

Also, Assembly Bill No. 54, An Act to amend "An Act creating a Board of Commissioners, and the Office of Overseer, in each Township of the State.

Also, Assembly Bill No. —, An Act to fix the Time of holding the County Court, etc., in the County of Santa Cruz.

Also, Assembly Bill No. 64, An Act to create the County of Buchanan, to define its boundaries, and provide for its organization.

The Assembly have also amended and passed Senate Bill No. 19, An Act concerning the Receipts and the Expenditures of the State, and ask the concurrence of the Senate in amendments.

Also, Senate Bill No. 36, An Act concerning the Board of Supervisors of Placer county.

Also, Senate Bill No. 23, An Act for the Relief of Jotham S. Marston, late Treasurer of Alameda County.

Also, Senate Bill No. 29, An Act amendatory of, and supplementary to, "An Act to authorize the Board of Supervisors of Placer County to levy a Special Tax," approved March 11th, 1856.

Also, concurred in Senate amendments to Assembly Bill No. 63, An Act to fix the Compensation of the County Judge of Napa County, the County Judge of Yolo County, and the County Judge and District Attorney of Napa County.

W. CAMPBELL,  
Clerk Assembly.

Assembly Bill No. 25, An Act to provide for Funding the Indebtedness of the County of Yuba.

Read first time, rule suspended, read second time, and referred to Yuba Delegation.

Assembly Bill No. 33, An Act to alter and define the Boundary Lines of Tehama County.

Read first time, rule suspended, read a second time, and referred to the Butte and Tehama Delegations.

Assembly Bill No. 35, An Act to cede certain property to the Town of Eureka.

Read first time, rule suspended, read a second time, and referred to the Committee on Public Lands.

Assembly Bill No. 36, an Act to fix the salary of the County Judge of Placer county.

Read first time, rule suspended, read a second time, and on motion of Mr. Walkup, the rules were further suspended, read a third time, and passed.

Assembly Bill No. 54, an Act to amend an Act creating a Board of Commissioners, and the office of Overseer in each township of the several counties of this State, to regulate water courses within their respective limits.

Read first time, rule suspended, read a second time, and referred to the Committee on Agriculture.

Assembly Bill No. 59, an Act to fix the time of holding the County Court, Court of Sessions, and Probate Court, in the County of Santa Cruz.

Read first time, rule suspended, read a second time, and referred to the Senator from Monterey.

Assembly Bill No. 64, an Act to create the county of Buchanan, to define its boundaries, and to provide for its organization.

Read first time, rule suspended, read a second time, and referred to the Committee on Counties and County Boundaries.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly return Assembly Bill No. 44, "An Act relating to the officers of San Mateo county, and prescribing their duties," agreeable to the request of the Senate.

W. CAMPBELL,  
Clerk Assembly.

On motion of Mr. Taliaferro, the vote by which Assembly Bill No. 44, "An Act relating to the officers of San Mateo county, and prescribing their duties," passed the Senate January 29th, was reconsidered and Bill laid on the table.

Mr. Mandeville introduced a Bill for an Act for the relief of James Kerrick, which was read first time, rule suspended, read a second time and referred to the Committee on Claims.

Mr. Mandeville introduced a Bill for an Act to divide the State into Congressional Districts, according to an act of Congress approved June 25th, 1842, which was read first time, rule suspended, read a second time and referred to the Committee on Elections.

Mr. Mandeville introduced a Bill for an Act for the relief of John S. Clark, which was read first time, rule suspended, read a second time and placed on the general file.

Mr. Taliaferro introduced a Bill for an Act to authorize the Board of Supervisors in and for the county of Marin, to levy a special tax, which was read first time, rule suspended, read a second time, and on motion of Mr. Taliaferro, the rules further suspended, the Bill considered engrossed, read a third time and passed.

Mr. De La Guerra introduced a Bill for an Act relative to the Board of Supervisors of Santa Barbara county, which was read first time, rule suspended, read a second time and referred to the Delegation of Santa Barbara.

Mr. Norman introduced a Bill for an Act to amend an act entitled an Act to



amend the fourteenth section of an act entitled an Act concerning the office of County Treasurers, passed March 27th, 1850, passed May 17th, 1853, which was read first time, rule suspended, read a second time and referred to the Delegation from Calaveras county.

Mr. Walkup in the Chair.

Mr. Merritt, Chairman of the Committee on Federal Relations, by leave made the following report :

*Mr. President :*

The Committee on Federal Relations, to whom was referred Assembly concurrent resolution relative to the pay of U. S. Army officers in the Pacific Division, have had the same under consideration, and beg leave to report the same to the Senate, without amendments, and recommend its passage.

All of which is respectfully submitted,

MERRITT,  
Chairman on Federal Relations.

Report accepted, and resolution placed on general file.

Mr. Taliaferro, by leave, made the following report :

*Mr. President :*

Your Committee, to whom was referred the Act concerning the office of County Recorder of the county of Sonoma, would respectfully recommend its passage.

A. W. TALIAFERRO.

Report accepted, and bill placed on general file.

Mr. Crandall, Chairman of the Committee on Enrollment, by leave made the following report :

*Mr. President :*

Your Committee on Enrollment have examined Senate Bill No. 34, an Act to authorize the Administrator and Administratrix of Archibald A. Ritchie, deceased, to sell the real estate of their intestate at private sale, and find the same correctly enrolled.

D. CRANDALL,  
Chairman.

Mr. Shaw, Chairman of the Committee on Claims, by leave made the following report :

*Mr. President :*

The Committee on Claims, to whom was referred the petition of R. G. Crozier, for \$2,400 for keeping State prisoners in the county of San Francisco in 1850, and

prior to the passage of a law establishing a State Prison, report that this claim was allowed by the Senate at the last session. The *bona fides* of the claim has been proved, and the Committee report that the same be allowed, and herewith submit a bill for that purpose.

WM. J. SHAW,  
Chairman.

Report accepted.

Bill read first time, rule suspended, read a second time, and laid on the table.

Mr. Melony made the following report :

Mr. President :

The Committee to whom was referred Assembly Bill No. 46, entitled an Act to amend an Act supplementary to an Act, approved April 20th, 1852, entitled an Act to provide for funding the debt of San Joaquin county, for the payment of the interest thereon, and for the gradual liquidation of the debt, approved April 19th, 1852, have had the same under consideration, and beg leave to report it back, with the following amendment, and recommend its passage.

A. R. MELONY, Chairman.

#### AMENDMENT.

Sec. 2. Section 8 is amended so as to read as follows :

On the first day of January of each year, when there shall be as much as five hundred dollars in the County Treasury, collected by the provisions of this amendatory Act, over and above the interest due on such first of January and July next, it shall be the duty of the County Treasurer to advertise in some public newspaper in the city of Stockton for ten days, stating the amount of such surplus in the Sinking Fund, and inviting bids of such Treasurer's office, on a given day, specifying the hour for proposals to redeem Bonds by this amendatory Act authorized to be issued. Such bidding shall be public, and it shall be the duty of the Treasurer to accept such bids, and in such amounts as will be the most advantageous terms to the county, and for such surplus will be able to redeem the greatest amount of Bonds, and the same shall be applied to the redemption of such Bonds for which bids were accepted, and the same taken up and canceled but no bid shall be received at higher rate than principal and interest.

Report accepted, and bill placed on general file.

Mr. Burnett gave notice that he will introduce a bill for an Act to authorize the Courts of Record of this State to admit Samuel Plomer Semper as an Attorney and Counsellor at Law.

Mr. Johnson of Sacramento gave notice that he will on a future day introduce a bill to allow State and County Warrants to be received for delinquent taxes in the county of Sacramento.

#### GENERAL FILE.

Senate Bill No. 51, an Act to authorize the present acting Sheriff of the city

of San Francisco to enforce the payment of delinquent taxes, and to legalize the assessments and rate of taxation thereof, was taken up, and referred to the San Francisco Delegation.

Senate Bill No. 45, an Act to amend an Act fixing the age of majority of males and females in this State, passed May 10, 1854.

On motion of Mr. Mandeville, laid on the table.

Assembly Concurrent Resolution relative to the pay of United States Army officers in the Pacific Division, was taken from the file and read.

Mr. Shaw moved to insert after the word "Division" and also the officers connected with the Light House Board on this coast.

Adopted.

Mr. Burnett moved to amend by inserting after the word "officers" the words "and men."

Adopted.

Mr. Fiske moved to insert the words "Post Masters" after the words officers of Light House Board.

Lost.

Mr. Westmoreland moved to add "and attaches of the Custom House."

Lost.

Question being upon the adoption of the Resolution as amended, was then taken and the resolution adopted.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly have passed Assembly Bill No. 92, being a substitute to Senate Bill No. 52, "An Act to make appropriations for the payment of the Salaries of the officers and attaches of the Senate."

W. CAMPBELL,

Clerk Assembly.

January 31st, 1857.

Mr. Coffroth moved that the rules be suspended and the Bill considered now carried; so the Bill was read first, second and third times, and passed.

Assembly Bill No. 46, an Act to amend an act supplementary to an act approved April 20th, 1852, entitled "An Act to provide for funding the debt of San Joaquin county, for the payment of the interest thereon, and for the gradual liquidation of the debt," approved April 19th, 1852, was taken from the file,

amendments reported by the Senator from San Joaquin this morning, adopted. Bill read a third time and passed as amended.

Assembly Bill No. 70, "An Act concerning the office of County Recorder of the county of Sonoma," was read a third time and passed.

Senate Bill No. 49, "An Act to provide for taking the sense of the people of Tehama county upon the question of removal of the county seat thereof from the town of Tehama to the town of Red Bluffs," was ordered to be engrossed for a third reading.

Mr. Dosh moved a reconsideration of the vote by which the Bill was ordered engrossed.

Carried.

And on motion of Mr. Dosh the rule was suspended, the bill was considered engrossed, read a third time and passed.

Senate Bill No. 28, "an Act concerning Public Taxes and Assessments, and sales of property made therefor," was on motion of Mr. Mandeville, laid on the table.

Senate Bill No. 60, "an Act for the relief of John S. Clark," was taken from the file.

Mr. Mandeville moved that the rules be suspended, the bill considered engrossed and placed upon its third reading.

Lost.

Mr. Shaw moved to lay upon the table.

Lost.

On motion of Mr. Mandeville the bill was placed at the foot of the calendar.

Senate bill No 65 was taken from the file, and, on motion of Mr. Mandeville, was laid upon the table.

Mr. Crandall, Chairman of the Committee on Enrollment, made the following reports:

*Mr. President :*

Your Committee on Enrollment have examined Senate bill No. 33, an Act for the relief of Jotham S. Marston, late Treasurer of Alameda County, and find the same correctly enrolled.

Your Committee have this day presented to his Excellency the Governor an Act to authorize the Administrator and Administratrix of Archibald A. Ritchie, deceased, to sell the real estate of their intestate at private sale.

D. CRANDALL,

Chairman.



*Mr. President:*

The Committee on Enrollment have presented to his Excellency the Governor an Act for the relief of Joatham S. Marston, late Treasurer of Alameda County.

D. CRANDALL,

Chairman.

Mr. Merritt asked leave of absence for two days; which was granted.

Mr. Melony, Chairman of Committee of Engrossed Bills, made the following report:

*Mr. President :*

The Committee on Engrossed Bills have examined Senate bill No. 43, entitled an Act to fix the compensation of the District Attorney for the County of Siskiyou, and to repeal in part the first section of an Act entitled an Act to fix the compensation of District Attorneys for the several counties of this State, passed May 4th, 1855, and find the same correctly engrossed.

A. R. MELONY,

Chairman.

January 31, 1857.

Report accepted, and bill placed on general file.

On motion of Mr. Norman, the Senate adjourned.

Approved February 2d, 1857.

R. M. ANDERSON,

President of Senate.

Attest:

GEO. S. EVANS, Secretary of Senate.

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## IN SENATE.

MONDAY, February 2, 1857.

Senate met pursuant to adjournment.

President in the chair.

Roll called.

Journal of yesterday read and approved.

Mr. Johnson, of El Dorado, asked leave of absence for Mr. Bynum for two days, which was granted.

Mr. Wilson presented the petition of citizens of Los Angeles county, praying for relief from the depredations of armed banditti, which was referred to the Committee on Military Affairs.

Mr. Coffroth, Chairman of the Committee on Public Lands, made the following report:

*Mr. President:*

The Committee on Public Lands, to whom was referred an Act to cede certain property to the town of Eureka, have had the same under consideration, and recommend its indefinite postponement.

JAS. W. COFFROTH,

Chairman.

Report accepted and bill placed on general file.

Mr. Coffroth, Chairman of the Committee on Public Lands, made the following report:

*Mr. President:*

The Committee on Public Lands have had under consideration a communication from W. N. Walton in reference to the swamp lands; they recommend that it be quietly laid away among the musty papers of the past session.

JAS. W. COFFROTH,

Chairman.

Report accepted and placed on general file.

The following message was received from the Governor:

STATE OF CALIFORNIA, EXECUTIVE DEPARTMENT, }  
SACRAMENTO, January 31st, 1857. }

*To the Senate of California:*

I have this day approved an Act to fix the time of holding the terms of the District Court of the Ninth Judicial District of this State.

Also, an Act to repeal an Act entitled an Act to incorporate the town of El Dorado, approved April 16th, 1855.

Also, an Act to fix the time for holding the Court of Sessions, County Court, and Probate Court, in the county of Tehama.

Also, an Act to authorize the administrator and administratrix of Archibald A. Ritchie, deceased, to sell the real estate of their intestate at private sale.

J. NEELY JOHNSON.

Mr. Tilford introduced a bill for an Act supplementary to an Act to provide for funding the legal and equitable debt of the city of San Francisco, and for the final redemption of the same, approved May 7th, 1855, which was read first time, rule suspended, read a second time, and referred to the San Francisco Delegation.

Mr. Burnett introduced a Bill for An Act to authorize Samuel Plumer Semper to be admitted to practice as Attorney and Counselor of Law, which was read first time, rule suspended, read a second time and referred to the Judiciary Committee.

Mr. Waite gave notice that on to-morrow he will introduce a Bill for An Act concerning Official Bonds.

Mr. Mandeville gave notice that on to-morrow he will introduce An Act for the payment of A. J. F. Phelan for services as Clerk of the Board of Commissioners of the War Debt.

Mr. Mandeville was granted leave to withdraw the papers of Jas. Kerrick.

Mr. Shaw offered his resignation as one of the Committee on Claims. Objections being made, Mr. Shaw rose to a point of order. The Senate could not refuse. The Chair ruled the point of order not well taken.

The question being on the acceptance of the resignation, the yeas and nays were demanded by Messrs. Coffroth, Fisk and Goodwin, and taken with the following result:

AYES.

Messrs. Bell, Carpenter, Coffroth, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Taliaferro, Tilford, Waite, Westmoreland—12.

NOES.

Messrs. Ashley, Burnett, Chase, Crandall, Cosby, Dosh, McGee, Melony, Mandeville, Mesick, Norman, Soule, Walkup, Wilson—14.

So the Senate refused to accept the resignation.

Mr. Coffroth in the Chair.

GENERAL FILE.

Senate Bill No. 43, An Act to fix the compensation of the District Attorney for the county of Siskiyou, and to repeal in part, the first section of an act entitled "An Act to fix the compensation of District Attorneys for the several counties of this State," passed May 4th, 1855, was taken up, read a third time and passed.

Senate Bill No. 60, An Act for the relief of John S. Clark, was taken up and on motion of Mr. Mandeville, ordered to be engrossed.

Assembly Bill No. 35, An Act to cede certain property to the town of Eureka, was taken up, the report of the Committee adopted and Bill indefinitely postponed.

## UNFINISHED BUSINESS.

Senate Bill No. 19, An Act concerning the receipts and expenditures of the State, was taken up, and upon the Senate refusing to concur in the amendments of the Assembly was, on motion of Mr. Ashley, referred to a Committee of Conference, and the Chair appointed said Committee on the part of the Senate, Messrs. Ashley, Crandall and McGee.

Mr. Walkup moved to reconsider the vote by which Senate Bill No. 60, An Act for the relief of John S. Clark, was ordered engrossed.

Carried.

Mr. Mandeville moved that the rule be suspended, and the bill be considered engrossed.

Lost.

Mr. Mandeville moved that the bill be ordered engrossed for a third reading tomorrow.

Mr. Goodwin moved the indefinite postponement of the whole matter.

Upon which the ayes and noes were called for by Messrs. Mandeville, Soule and Walkup, and taken with the following result:

## AYES.

Messrs. Ashley, Bell, Carpenter, Chase, Crandall, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Goodwin, Melony, Mesick, Shaw, Soule and Walkup—15.

## NOES.

Messrs. Burnett, Coffroth, Cosby, Johnson of El Dorado, McGee, Mandeville, Taliaferro, Tilford, Waite, Westmoreland and Wilson.—11.

So the motion prevailed, and the bill was indefinitely postponed.

Mr. Mandeville moved to take from the table Senate bill No 65, an Act for the relief of Robert G. Crozier.

Carried.

Mr. Mandeville moved to indefinitely postpone the bill.

Upon which the ayes and noes were demanded by Messrs. Norman, Walkup and Mandeville, and taken with the following result:



## AYES.

Messrs. Carpenter, Crandall, Ferguson of Sierra, Fiske, Johnson of Sacramento, Mandeville, Norman, Soule, Waite and Walkup—10.

## NOES.

Messrs. Burnett, Chase, Coffroth, Cosby, Dosh, Ferguson of Sacramento, Johnson of El Dorado, Melony, Mesick, Taliaferro, Tilford, Westmoreland and Wilson—13.

So the motion was lost, and the Senate refused to indefinitely postpone.

Mr. Mandeville moved that the rule be suspended, and the bill considered engrossed.

Mr. Walkup moved that the bill be recommitted, with instructions to report a bill authorizing the proper authorities of San Francisco to audit and allow the claim.

Lost.

Question being upon the motion of Mr. Mandeville, to order the bill engrossed, the ayes and noes were demanded by Messrs. Walkup, Fiske and Carpenter, and taken with the following result :

## AYES.

Messrs. Bell, Chase, Coffroth, Cosby, Ferguson of Sacramento, Goodwin, McGee, Melony, Mesick, Soule, Taliaferro, Tilford, Westmoreland—13.

## NOES.

Messrs. Burnett, Carpenter, Crandall, Dosh, Ferguson of Sierra, Fiske, Johnson of Sacramento, Johnson of El Dorado, Maudeville, Norman, Waite, Walkup, Wilson—13.

So the motion was lost.

There being no objection, Senate Bill No. 45, an Act to amend an Act entitled an Act fixing the age of majority of males and females in this State, passed May 10th, 1854, was taken from the table.

Mr. Shaw moved its indefinite postponement, which was carried.

Mr. Shaw, Chairman of Committee on Claims, made the following report :

*Mr. President:*

The Committee on Claims, to whom was referred the petition of Charles C.

Chapman, concerning a private claim which he has against the city of San Francisco, report that it seems to be merely a private grievance, in which the Legislature will not probably desire to interfere. They therefore recommend the petition be laid on the table, and that the Committee be relieved from any further consideration of the subject.

W. J. SHAW,  
Chairman.

Report adopted.

So the Senate refused to allow the claim.

Also, the following report :

*Mr. President:*

The Committee on Claims, to whom was referred the claim of Chambers & Co. for \$1,737.96, for articles bought by Gen. Estell, at the instance of Mr. Graham, Superintendent of Public Buildings, in December, 1851, for the use of the Legislature at Vallejo, report that due proof thereof has not been made, and they recommend that it be not allowed.

W. J. SHAW,  
Chairman.

Report adopted.

So the Senate refused to allow the claim.

Also, the following:

*Mr. President:*

The Committee on Claims, to whom was referred an Act to remunerate J. W. Denver for his services as Commissioner of the California War Debt, report that it would be unreasonable to suppose the gentleman named has not some claim of an equitable nature, to be compensated for his extra services in the behalf indicated ; but the Committee are of the opinion that in the present exigency of the government, and with the limited information they have at present, the matter had better be deferred, and that the bill be indefinitely postponed.

W. J. SHAW,  
Chairman.

The report was accepted, and on motion of Mr. Taliaferro, the Bill was laid on the table.

The following Message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly on Saturday the 31st January, passed Senate Bill No. 41, An Act to amend "An Act to incorporate the city of Nevada," approved April 19th, 1856.

Also, on January 30th, 1857, passed Assembly Bill No. 83, An Act to separate the office of Collector of Taxes from the office of Sheriff in the county of Butte.

W. CAMPBELL,  
Clerk of Assembly.

Assembly Bill No. 83, An Act to separate the office of Collector of Taxes from the office of Sheriff in the county of Butte, was read first time, rule suspended, read a second time and referred to the Senator from that District.

The following Message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly this day passed Assembly Bill No. 101, An Act supplementary to an act entitled "An Act to re-incorporate the city of Sonora," approved March 9th, 1855.

W. CAMPBELL,

Clerk of Assembly.

Assembly Bill No. 101, was read first time, rule suspended, read a second time, and on motion of Mr. Maudeville, referred to the Tuolumne Delegation.

Mr. Dosh, from the Committee on Military Affairs, presented the following report:

*Mr. President :*

The Committee on Military Affairs, to whom was referred the petition of sundry citizens of the county of Los Angeles, having duly considered the same for reasons set forth in said petition, beg leave to report the accompanying Bill and recommend its passage.

S. H. DOSH.

Chairman.

An Act to provide for the arrest and suppression of bands of armed Banditti in the counties of Los Angeles and San Bernardino, which was read first time, rules suspended and read a second time.

Mr. Shaw offered the following amendment:

*And Provided,* That no indebtedness, as herein before appropriated, shall be in any manner created or incurred against the State.

Adopted.

On motion of Mr. Dosh, the Bill was then read third time, and passed as amended.

The following Message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the House has appointed Messrs. O'Neill, Catlin and McDonald, a Committee, on the part of the Assembly, to confer with a similar Committee on the part of the Senate, on Senate Bill No. 19, An Act concerning the receipts and expenditures of the State.

W. CAMPBELL,

Clerk of Assembly.

Mr. Tilford asked leave of absence for Mr. Sullivan, which was granted.

Mr. Shaw moved to take from the table Senate Bill No. 28, An Act concerning public taxes and assessments, and sales of property made therefor.

On motion of Mr. Shaw, it was referred to the San Francisco and Sacramento Delegations.

On motion of Mr. Westmoreland, the Senate adjourned.

Approved February 3d, 1857.

R. M. ANDERSON,  
President Senate.

Attest :

G. S. EVANS, Secretary Senate.

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## IN SENATE.

TUESDAY, February 3, 1857.

Senate met pursuant to adjournment.

President in the Chair.

Roll called.

Journals of yesterday read and approved.

Mr. Wilson asked leave of absence for Mr. De La Guerra for the day, which was granted.

Mr. Soule asked leave of absence for Mr. Sullivan for the day, which was granted.

Mr. Fiske asked leave of absence for Mr. McCallum for three days, which was granted.

Mr. Mandeville presented the petition of James Kerrick, praying for relief, which was read and referred to the Committee on Claims.

Mr. Tilford rose to a question of privilege. Alluded to statements published in the San Francisco Bulletin affecting his course with reference to measures now before the Senate, denounced the corruptions of the publishers of that paper, and branded the statements as false and infamous.



Mr. Shaw, Chairman of the Committee on Commerce and Navigation, made the following report:

*Mr. President:*

The Committee on Commerce and Navigation, to whom was referred an Act to amend an Act concerning Corporations, passed April 22, 1850, and also an Act to amend an Act entitled an Act to provide for the formation of Corporations for certain purposes, approved April 14, 1853, having had the same under consideration, report the same back for the further action of the Senate without recommendation.

By order of the whole Committee.

WM. J. SHAW,  
Chairman.

Report accepted.

Mr. Melony moved that the bills be recommitted to a Special Committee of three.

Mr. Johnson moved that they be referred to the Committee on Corporations, which was lost.

The question recurring on Mr. Meloney's motion to refer to a special committee, was put and carried, and the Chair announced the following as said Special Committee:

Messrs. Meloney, Norman, and Coffroth:

Mr. Norman, Chairman of the Committee on Mines and Mining Interests, made the following report:

*Mr. President:*

The Committee on Mines and Mining Interests, to whom was referred Senate bill No. 44, have had the same under consideration, and recommend that the word "necessary" be inserted before the word "improvement" in the fortieth line; and the Committee further recommend that all of that portion of the bill which follows the word "obligee" in the fortieth line be stricken out. Thus amended, we unanimously recommend the passage of the bill.

W. B. NORMAN,  
Chairman.

Report accepted and bill placed on general file.

Mr. Mandeville made the following report:

*Mr. President:*

The Tuolumne Delegation, to whom was referred Assembly bill No. 101, an Act supplementary to an Act to reincorporate the City of Sonora, approved March 9th, 1855, have had the same under consideration, and beg leave to report the same back to the Senate with amendments, and recommend its passage.

MANDEVILLE,  
COFFROTH.

On motion of Mr Mandeville, the rules were suspended; the bill considered, amendments adopted, bill read a third time, and passed.

Mr. McGee, to whom was referred Assembly bill No. 83, an Act to separate the office of Collector of Taxes from the office of Sheriff in the County of Butte, reported the same back, and recommended its passage without amendments.

Report accepted, rule suspended; bill read a third time and passed.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly, on yesterday, adopted Assembly concurrent resolution relative to the segregation of the lands of this State from those of the General Government, and ask the concurrence of the Senate.

Also passed Senate bill No. 21, an Act to fix the compensation of the County Judge and Supervisors of the County of Tehama.

Also Assembly bill No. 77, an Act authorizing the Board of Supervisors of San Joaquin County to audit the account of John A. Tyler.

Also, Assembly bill No. 41, an Act granting to John A. Rudisil the privilege to erect a wharf on Petaluma creek, in Sonoma county, and collect wharfage.

W. CAMPBELL,

Clerk Assembly.

Assembly bill No. 77, an Act authorizing the Board of Supervisors of San Joaquin county to audit the account of John A. Tyler, was read first time, rule suspended, read a second time, and referred to the Delegation from San Joaquin county.

Assembly bill No. 41, an Act granting the privilege to John A. Rudisil to erect a wharf on Petaluma creek, in Sonoma county, and collect wharfage, was read first time, rule suspended, read a second time, and referred to the Committee on Public Lands.

Assembly Concurrent Resolution relative to the segregation of the lands of this State from those of the General Government, was, on motion of Mr. Shaw, concurred in.

Mr. Ferguson, of Sacramento, introduced a bill entitled an Act to release B. S. Gray from liability to the State of California on certain bond, which was read first time, rule suspended, read a second time, and referred to the Judiciary Committee.

Mr. Coffroth introduced a bill entitled an Act for the relief of James Penny, which was read first time, rule suspended, read a second time, and referred to the Committee on Claims.

Mr. Waite introduced a bill entitled an Act concerning official bonds, which was read first time, rule suspended, read a second time, and referred to the Judiciary Committee.

Mr. Mandeville introduced a bill entitled an Act to pay additional compensation to A. J. F. Phelan for services as Clerk of the Commissioners of the War Debt, which was read first time, rule suspended, read a second time, and referred to the Committee on Claims.

Mr. Mandeville gave notice that he would on some future day move to amend the Standing Rules of the Senate so that they will read, "Shall the bill be ordered engrossed for a third reading?"

#### GENERAL FILE.

Senate bill No 44, this morning reported from Committee on Mines and Mining Interests, was taken from the file, and considered in the Committee of the Whole. After some time so spent in considering the bill, the committee rose and reported progress.

In Senate.

The question being, shall the amendments of the Committee of the Whole be concurred in? was put and carried.

On motion of Mr. Mandeville, the bill was laid upon the table.

On motion of Mr. Mandeville, the Senate adjourned.

Approved February 4th, 1857.

R. M. ANDERSON,  
President Senate.

Attest:

G. S. EVANS, Secretary Senate.

## IN SENATE.

WEDNESDAY, February 4, 1857.

Senate met pursuant to adjournment.

President in the Chair.

Roll called.

Journal of yesterday read and approved.

Mr. Taliaferro presented the petition of G. McGee and M. Flaherty, for relief for conveying passengers and freight to and from San Francisco and the State-Prison during the year 1855.

Mr. Taliaferro moved its reference to the Committee on State Prison.

On motion of Mr. Merritt, the petition was referred to Committee on Claims.

Mr. Johnson, of Sacramento, introduced a bill for an Act concerning delinquent taxes in the County of Sacramento.

Read first time, rule suspended; read second time, and placed on general file.

Mr. Chase gave notice that, at an early day, he will introduce a bill to authorize the Board of Supervisors of Nevada County to levy a special tax for the purpose of discharging the indebtedness of said County.

Mr. Ashley made the following report:

The Committee on Claims report Senate bill No. 47, and recommend its passage.

ASHLEY,  
Of the Committee.

Report accepted, and bill placed on general file.

Mr. Bell, by leave, introduced a bill for an Act for the establishing of the first day of the week as a day of rest from secular employments.

Read first time, rule suspended; read second time, and referred to Committee on Public Morals.

The following message was received from the Assembly.

*Mr. President :*

I am directed to inform the Senate that the Assembly, on yesterday, adopted the report of Committee of Free Conference, relative to Senate Bill No. 19, An Act concerning the receipts and expenditures of the State.

W. CAMPBELL,  
Clerk of Assembly.

February 4th, 1857.



On motion of Mr. Ashley, the report of the Committee of Free Conference was adopted.

Mr. Merritt in the Chair.

Mr. Crandall made the following report:

*Mr. President:*

Your Committee on Enrollment, have examined and found correctly enrolled the following Bills:

An Act to provide for the arrest and suppression of bands of armed Banditti in the counties of Los Angeles and San Bernardino.

Also, An Act concerning the Board of Supervisors of Placer county.

Also, An Act to amend an act entitled "An Act to incorporate the city of Nevada.

Also, An Act to fix the compensation of the County Judge and Supervisors of the county of Tehama.

D. CRANDALL,

Chairman.

Mr. Shaw introduced the following resolution:

*Resolved*, That the Committee on Contingent Expenses be and they are hereby directed, to obtain the statements required by law from the Justices of the Supreme Court, as to the disposition which has been made of the appropriations for the contingent expenses thereof. (See Laws of 1856, p. 46.)

Adopted.

#### GENERAL FILE.

Senate Bill No. 47, An Act for the relief of Richard Cole, was taken up, considered engrossed and read third time.

The question being on the final passage of the Bill, the ayes and noes were called for by Messrs. Dosh, Carpenter and Soule, and taken with the following result:

#### AYES.

Messrs. Ashley, Bell, Burnett, Carpenter, Chase, Cosby, Fiske, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Mandeville, Merritt, Mesick, Soule, Sullivan, Taliaferro, Waite, Walkup and Westmoreland—19.

#### NOES.

Messrs. Coffroth, Dosh, Ferguson of Sierra, McGee and Melony—5.

Mr. Westmoreland made the following report :

*Mr. President :*

The Committee on State Prison, to which was referred the memorial of Jas. Smiley, praying for relief for labor done on the State Prison wall, and for supplies furnished to that institution, beg leave to report the same back.

Your Committee is impressed with the conviction that the memorialist is entitled to some relief in the premises, but to what precise amount the Committee are unable to report. The Committee would suggest that a Special Committee be appointed to examine the wall in question, and carefully estimate the value of the same, and examine also the vouchers of the memorialist, and to this end that the testimony of experienced engineers and builders be taken to estimate the actual value of the improvements mentioned.

C. WESTMORELAND,

Chairman.

Report accepted, and placed on general file.

Senate Bill No. 73, an Act concerning delinquent taxes in the county of Sacramento, was taken up.

On motion of Mr. Mandeville, referred to Judiciary Committee.

The Report of Committee on State Prison, made this morning, was taken up.

Mr. Westmoreland moved that the Special Committee be appointed, as recommended in the report.

Mr. Norman moved that the report and the accompanying memorial be referred to Committee on Claims.

The ayes and noes were called for by Messrs. Norman, McGee and Fiske, and taken, with the following result:

#### AYES.

Messrs. Chase, Crandall, Ferguson of Sierra, Fiske, Johnson of Sacramento, Johnson of El Dorado, McGee, Melony, Mandeville, Merritt, Mesick, Norman, Soule, Waite, Walkup—15.

#### NOES.

Messrs. Bell, Burnett, Coffroth, Sullivan, Taliaferro, Westmoreland—6.

So the motion was carried.

The following message was received from His Excellency the Governor :

STATE OF CALIFORNIA, Executive Department, }  
Sacramento, Feb. 3, 1857. ... }

*To the Senate of California :*

I have this day approved an Act for the relief of Jotham S. Marston, late Treasurer of Alameda county.

J. NEELY JOHNSON.

STATE OF CALIFORNIA, EXECUTIVE DEPARTMENT, }  
 Sacramento, Feb. 4, 1857. }

*To the Senate of California :*

I have this day approved an Act concerning the Board of Supervisors of Placer county.

Also, an Act to fix the compensation of the County Judge and Supervisors of the County of Tehama.

Also, an Act to amend an Act entitled an Act to incorporate the city of Nevada.

Also, an Act to provide for the arrest and suppression of bands of armed banditti in the counties of Los Angeles and San Bernardino.

J. NEELY JOHNSON.

Mr. Crandall made the following report :

*Mr. President :*

Your Committee on Enrollment have this day presented to His Excellency the Governor an Act to provide for the arrest and suppression of bands of armed banditti in the counties of Los Angeles and San Bernardino.

Also, an Act concerning the Board of Supervisors of Placer county.

Also, an Act to amend an Act entitled an Act to incorporate the city of Nevada.

Also, an Act to fix the compensation of the County Judge and Supervisors of the county of Tehama.

D. CRANDALL,

Chairman.

Mr. Taliaferro introduced a bill for an Act to authorize the Governor to grant pardons to certain individuals.

Read first time, rule suspended; read second time, and referred to the Judiciary Committee.

Mr. Fiske presented the petition of the proprietors of the Placerville American praying for relief.

Petition read, and, on motion of Mr. Fiske, referred to Committee on Claims.

Mr. Waite introduced a bill for an Act to abolish the office of Director of the State Prison.

Read first time, rule suspended; read a second time, and referred to Judiciary Committee.

Mr. Bell gave notice that, at an early day, he will introduce a bill defining the time of commencing civil actions in certain cases, which will be supplementary to an Act passed April 2d, 1855.

Mr Burnett gave notice that, at an early day, he will move the adoption of an additional rule of the Senate, to the effect that whenever the ayes and noes shall be taken, and any Senator or Senators, being within the bar, shall refuse or neglect to vote, the names of such Senator or Senators shall be noted upon the Journal of the Senate.

Mr. Coffroth, Chairman of the Committee on Public Lands, by leave, made the following report:

*Mr. President:*

The Committee on Public Lands, to whom was referred an Act granting the privilege to John A. Rudisal to erect a wharf on Petaluma creek, in Sonoma county, and collect wharfage, report the same back, and recommend its passage with an amendment striking out "20" in the sixth line of first section and insert "10."

JAS. W. COFFROTH,  
Chairman.

Report accepted, amendment adopted, bill read a third time and passed.

Mr. McGee moved that the Senate do now adjourn, upon which the ayes and noes were demanded by Messrs. Chase, Johnson of El Dorado, and Norman, and taken with the following result:

AYES.

Messrs. Bell, Chase, Ferguson, of Sacramento, Fiske, Johnson of Sacramento, McGee, Mandeville, Shaw, Sullivan, and Walkup—10.

NOES.

Messrs. Ashley, Burnett, Coffroth, Crandall, Cosby, Ferguson of Sierra, Johnson of El Dorado, Merritt, Mesick, Norman, Soule, Taliaferro, and Westmoreland—13.

So the Senate refused to adjourn.

Mr. Shaw asked leave of absence for Mr. Tilford for three days, which was granted.

On motion of Mr. Norman, Senate bill No. 44, an Act to amend an Act entitled an Act to protect Owners of Growing Crops, Buildings and other improvements in the mining Districts of this State, approved April 25th, 1855, was taken from the table.

Mr. Mandeville moved that the bill be made the special order of the day for to-morrow at 12 o'clock M., which was lost.

Mr. Shaw offered the following amendment, which was adopted:

Amend by inserting before the word "destruction" the words "injury or."

On motion of Mr. Cosby, the rule was suspended, the bill considered engrossed, and read a third time.

The President in the chair.



The question being upon the final passage of the bill, the ayes and noes were demanded by Messrs. Coffroth, Cosby and Fiske, and taken with the following result:

AYES.

Messrs. Ashley, Burnett, Carpenter, Chase, Crandall, Cosby, Dosh, Fiske, Johnson of El Dorado, McGee, Melony, Mandeville, Merritt, Mesick, Norman, Shaw, Soule, Sullivan, Waite, Walkup and Westmoreland—21.

NOES.

Messrs. Bell, Coffroth and Taliaferro—3.

So the bill was passed.

Mr. Ashley asked leave to withdraw the petition and accompanying papers of Mr. Crozier, which was granted.

MESSAGE FROM THE ASSEMBLY.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly have this day passed Assembly bill No. 108, an Act relating to the 13th Judicial District, and to define the time of holding the Courts of said District.

W. CAMPBELL,

Clerk of Assembly.

Bill read first time, rule suspended, read a second time, and on motion of Mr. Merritt, the rules were further suspended, the bill read a third time and passed.

Mr. Fiske gave notice that he will at an early day introduce a bill to reduce the salary of the County Judge of El Dorado county.

On motion of Mr. Bell, the Senate adjourned.

Approved February 5th, 1857.

R. M. ANDERSON,

President Senate.

Attest:

GEO. S. EVANS, Secretary Senate.

## IN SENATE.

THURSDAY, February 5, 1857.

Senate met pursuant to adjournment.

The President in the Chair.

Roll called.

Mr. Westmoreland absent.

Journal of yesterday read, amended, and approved.

Mr. Crandall asked leave of absence for Mr. Ferguson of Sacramento for three days; which was granted.

Mr. Wilson asked leave of absence for Mr. De La Guerra for one day longer; which was granted.

Mr. Bynum made the following report:

*Mr. President:*

Your Special Committee, to whom was referred Assembly bill No. 60, entitled an Act to amend an Act to fund the debt of the County of Napa, and provide for the payment of the same, approved April 19, 1856, has had said bill under consideration, and respectfully recommend the passage of the same without amendment.

S. BYNUM,  
Of Committee.

Report accepted, and bill placed on general file.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly, on yesterday, passed Assembly bill, No. 75, an Act to extend an Act concerning Hogs found running at large in the Counties of Marin, Sacramento, San Francisco, Stanislaus, Alameda, Yuba and Santa Clara, approved April 21, 1856.

Also an Act amendatory to an Act to provide for the funding of the Floating Debt of the City of Marysville, approved April 30, 1855; also amendatory to an Act entitled an Act to provide for funding the Floating Debt of the City of Marysville, and for the extinguishment thereof, and for other purposes, approved February 8, 1856.

Also have concurred in Senate amendments to Assembly bill No. 41, an Act granting the privilege to John A. Rudisal to erect a wharf on Petaluma creek, in Sonoma County, and collect wharfage.

W. CAMPBELL,  
Clerk of Assembly.

Assembly bill No. 75, an Act to extend an Act concerning Hogs found running at large in the Counties of Marin, Sacramento, San Francisco, Stanislaus, Alameda, Yuba and Santa Clara, approved April 21, 1855, was then taken up, and read first time; rule suspended, read a second time, and referred to the Committee on Agriculture.

Assembly bill No. 87, an Act amendatory to an Act entitled an Act to provide for the funding of the Floating Debt of the city of Marysville and for the extinguishment thereof, approved April 30th, 1855; also, amendatory to an Act entitled an Act to provide for funding the Floating Debt of the city of Marysville and for the extinguishment thereof, and for other purposes, approved February 8th, 1856, was taken up, read first time, rule suspended, read a second time, and on motion of Mr. Burnett, referred to the Yuba Delegation.

Mr. Burnett offered the following amendment to the Standing Rules of the Senate, which was adopted:

Whenever the ayes and noes shall be taken, it shall be the duty of the Secretary, after he shall have announced the names of those voting in the affirmative and of those voting in the negative, to announce the names of those Senators who, being within the bar of the Senate at the time that their names were called, either refused or neglected to vote; and the names of such Senators not voting shall be entered in the journals under the head of "present but not voting," and it shall be the duty of the Reporter of the Senate to report such names under the same heading.

#### GENERAL FILE.

Assembly bill No. 60, an Act entitled an Act to fund the Debt of the county of Napa, and provide for the payment of the same," approved April 19th, 1856, was read third time and passed.

Mr. Mandeville, to whom was referred Assembly bill No. 80, an Act to fix the compensation of the County Judge and District Attorney for Stanislaus, and the District Attorney for Napa county, reported the same back without amendments, and recommended its passage.

Report accepted.

Bill read third time and passed.

Mr. Taliaferro, by leave, introduced a bill for an Act to repeal an Act concerning the escape of convicts of the State Prison, approved April 10th, 1857, which was read first time, rule suspended, read second time, and referred to the Judiciary Committee.

Mr. Shaw, by leave, made the following report :

*Mr. President:*

The Committee on Commerce and Navigation, to whom was referred the Act entitled an Act to amend section 6th of an Act entitled an Act regulating the duties of Harbor Master of the port of San Francisco, and an Act entitled an Act

regulating duties of Dock Master of San Francisco, reported that they have had the same under long and careful examination, and report a substitute for the same, and respectfully recommend its passage.

WM. J. SHAW,  
Chairman.

Report accepted.

Mr. Mandeville in the chair.

On motion of Mr. Shaw, the bill was considered.

Question being on the adoption of the substitute, was taken. Substitute adopted and bill ordered engrossed for a third reading.

Mr. McGee, by leave, gave notice that on to morrow he will introduce a bill increasing the pay of the County Judge of Plumas county.

Mr. Cosby, by leave, gave notice that at an early day he will introduce a bill for an Act to amend an act entitled an Act to create a Board of Supervisors for the Counties of this State and to define their duties and powers, passed May 3d, 1852.

Mr. Norman, by leave presented a petition of sundry citizens from Drytown, in Amador county, for relief, which was referred to the Committee on Claims.

On motion of Mr. Mandeville, the Senate adjourned.

Approved February 6th, 1857.

S. H. DOSH,  
President Senate *pro tem*.

Attest:

T. WARD, Assistant Secretary.



## IN SENATE.

FRIDAY, February 6, 1857.

Senate met pursuant to adjournment.  
 President in the chair.  
 Roll called.  
 Journals of yesterday read and approved.

Mr. Melony, Chairman of the Committee on Engrossment, made the following report:

*Mr. President:*

The Committee on Engrossed Bills have examined Senate bill No. 19, entitled an Act concerning the receipts and expenditures of the State, and find the same correctly engrossed.

A. R. MELONY,

Chairman.

The following Message was received from the Assembly :

*Mr. President :*

I am directed to inform the Senate, that the Assembly, on the 3d instant, passed Assembly bill No. 107, an Act to fix the compensation of the County Judge of San Joaquin County.

W. CAMPBELL,

Clerk of Assembly.

Assembly bill No. 107, an Act to fix the compensation of the County Judge of San Joaquin County, was taken up; read first time, rule suspended; read a second time.

On motion of Mr. Mandeville, the rules were further suspended, the bill considered engrossed, read a third time, and passed.

Mr. McGee introduced a bill for an Act to amend an Act to organize the County of Plumas, passed March 18, 1854.

Read first time; rule suspended, read a second time, and referred to the Senator from Plumas County.

Mr. Waite introduced a bill for an Act to amend the sixty-seventh section of an Act entitled an Act to regulate proceedings in criminal cases, passed May 1, 1851; read first time; rule suspended, read a second time.

On motion of Mr. Mandeville, the rules were further suspended, the bill considered engrossed, read a third time, and passed.

On motion of Mr. Norman, the Senate adjourned.

Approved February 7, 1857.

R. M. ANDERSON,  
President of Senate.

Attest :

T. W. WARD, Assistant Secretary.

## IN SENATE.

SATURDAY, February 7th, 1857.

Senate met pursuant to adjournment.

President in the chair.

Roll called.

Journal of yesterday read and approved.

Leave of absence was granted to Mr. Waite for two days, Mr. Mesick for two days, and Mr. Dosh for two days.

Mr. Crandall, Chairman of the Committee on Enrollment, made the following report:

*Mr. President:*

Your Committee on Enrollment, have examined and found correctly enrolled, Senate Bill No. 19, An Act concerning the receipts and expenditures of the State.

Also, Senate Bill No. 29, An Act amendatory of and supplementary to, an act entitled "An Act to authorize the Board of Supervisors of Placer county to levy a special tax," approved March 11th, 1856."

D. CRANDALL,  
Chairman.

Mr. Shaw presented the following communication:

To His Excellency, R. M. ANDERSON, *Lieut. Governor*:

SIR—

I hereby resign my office as one of the Senators from the San Francisco District, to take effect from this date.

Respectfully,

F. TILFORD.

San Francisco, Feb. 5th, 1857.

Mr. Melony, Chairman of the Committee on Engrossment, made the following report:

*Mr. President:*

The Committee on Engrossed Bills, have examined Senate Bill No. 78, entitled "An Act concerning the Harbor Master of San Francisco," and find the same correctly engrossed.

A. R. MELONY,  
Chairman.

The Judiciary Committee made the following report:

*Mr. President:*

The Judiciary Committee, to whom was referred Senate Bill No. 77, entitled "An Act to repeal an act concerning the escape of convicts of the State Prison," approved April 10th, 1855, have had the same under consideration and beg leave to report the same back, and recommend its indefinite postponement.

Also, Senate Bill No. 76, entitled "An Act to abolish the office of Director of the State Prison," have had the same under advisement and recommend its passage.

D. R. ASHLEY,  
Acting Chairman.

Report accepted, and bill placed on general file.

Mr. Melony made the following report:

*Mr. President:*

Your Committee, to whom was referred Assembly bill No. 77, entitled an Act authorizing the Board of Supervisors of San Joaquin County to audit the accounts of John A. Tyler, have had the same under consideration, and beg leave to report the same back to the Senate, and recommend that the bill be indefinitely postponed.

A. R. MELONY,  
Chairman.

Report accepted.

Mr. Ashley, to whom was referred Senate bill No. 56, an Act supplementary to an Act concerning the debt and current expenses of the County of Monterey, and to provide for the funding and the payment of the same, approved April 19, 1856, report the same back to the Senate, and recommend its passage.

Report accepted.

The President appointed Mr. Shaw to fill the vacancy in the Judiciary Committee occasioned through the resignation of Senator Tilford.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly, on the 4th instant, passed Assembly bill No. 62, an Act to incorporate the City of Marysville.

Also have concurred in Senate amendments to Assembly concurrent resolution relative to the pay of United States Army Officers in the Pacific Division.

Also have concurred in Senate amendments to Assembly bill No. 46, an Act to amend an Act supplementary to an Act approved April 20, 1852, entitled an Act to provide for funding the debt of San Joaquin County, for the payment of the interest thereon, and for the general liquidation of the debt, approved April 19, 1852.

Also have passed Assembly bill No. 96, an Act to amend an Act to incorporate the City of Monterey, approved May 11, 1853.

W. CAMPBELL,

Clerk Assembly.

Assembly Bill No. 62, "an Act to incorporate the city of Marysville," was taken up, read first time, rule suspended, read a second time and referred to the Yuba Delegation.

Assembly Bill No. 96, "an Act to amend an Act to incorporate the city of Monterey," approved May 11th, 1853, was read first time, rule suspended, read a second time and referred to the Committee on Corporations.

Mr. Bell introduced a bill for an Act supplementary to "an Act defining the time of commencing civil actions in certain cases," passed April 2d, 1855, which was read first time, rule suspended, read a second time, and referred to the Judiciary Committee.

Mr. Ashley asked leave for Mr John Walter to withdraw his papers, which was granted.

Mr. McCallum in the Chair.

#### GENERAL FILE.

Senate Bill No. 78, "an Act concerning the Harbor Master of the port of San Francisco," was read a third time and passed.



Senate bill No. 77, an Act to repeal "An Act concerning the escape of convicts of the State Prison," approved April 10th, 1855, was, on motion of Mr. Mandeville, placed at the foot of the calendar.

Senate bill No. 76, "An Act to abolish the office of Director of the State Prison," was, on motion of Mr. Mandeville, laid on the table.

Assembly bill No. 77, "An Act authorizing the Board of Supervisors of San Joaquin County to audit the accounts of John A. Tyler," was, on motion of Mr. Mandeville, indefinitely postponed.

Senate bill No. 56, an Act supplementary to and amendatory of "An Act concerning the debt and current expenses of the County of Monterey and to provide for the funding and for the payment of the same," approved April 19th, 1856, was taken up, and on motion of Mr. Ashley, the rules suspended, bill considered engrossed, read third time and passed.

Mr. Norman offered the following resolution:

*Resolved*, That the Controller of State be requested to furnish to the Senate at his earliest convenience, a full statement of the entire amount of money which has been paid by this State on account of the State Insane Asylum.

Adopted.

Mr. Ashley, to whom was referred Assembly bill No. 59, "An Act to fix the time of holding the County Court, Court of Sessions, and Probate Court in the County of Santa Cruz," reported the same with a substitute.

Substitute adopted, bill read a third time and passed.

Mr. Bell moved that Assembly bill No. 44 be taken from the table, which was lost.

Mr. Fiske introduced a bill for an Act to reduce the salary of the County Judge of El Dorado County, which was read first time, rule suspended, read a second time, and referred to the El Dorado Delegation.

Mr. Norman offered the following :

*Resolved*, by the Senate, the Assembly concurring, That this Legislature do adjourn *sine die* on Tuesday, the 10th day of March next.

Mr. Coffroth moved to amend by making the subject the special order of the day for the 21st inst. at 12 o'clock M.

Upon which the ayes and noes were demanded by Messrs. Norman, Cosby and Coffroth, and taken with the following result:

AYES.

Messrs. Ashley, Burnett, Bynum, Carpenter, Chase, Coffroth, Cosby, De La

Guerra, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Johnson of El Dorado, McCallum, Mandeville, Merritt, and Westmoreland—18.

NOES.

Messrs. Bell, Norman, Shaw, Soule, Sullivan, Taliaferro, Walkup, and Wilson—8.

Mr. Melony declined voting.

So the resolution was made the special order of the day for Saturday, the 21st inst.

Mr. Bynum, Chairman of the Committee on Counties and County Boundaries, made the following report :

*Mr. President :*

Your Committee on Counties and County Boundaries, have had under consideration Assembly Bill No. 64, entitled an Act to create the county of Buchanan, to define its boundaries, and provide for its organization, respectfully report the same back, with the following amendments, and respectfully recommend the passage of the bill as amended :

In the title of the bill strike out the word "Buchanan" and insert word "Del Norte."

In every section of the bill strike out word "Buchanan" wherever it occurs, and insert "Del Norte."

Amend section 7th by adding thereto the following :

And also, by posting written or printed notices in each election precinct at the place of holding such election, at least five days prior to the day of election.

Strike out section 17th, and insert substitute herewith reported.

Amend section 18th by adding thereto the following :

The per diem compensation of said Examiners shall be fixed and paid by the respective counties to which they belong ; *Provided*, that in case of the appointment of a fifth Examiner, as provided in this section, then the amount allowed said fifth Examiner to be paid equally by said counties.

S. BYNUM,

Chairman.

Substitute for Section 17th :

At the first regular meeting of the Board of Supervisors of Del Norte county, there shall be appointed by said Board two persons as Examiners, to meet a corresponding number of Examiners, who shall be appointed by the Board of Supervisors of Klamath county, at their regular meeting, held on the first Monday in August, A. D. 1857. The Examiners so appointed shall meet at the seat of Justice of Klamath county, on the third Monday in September of the present year, or so soon thereafter as practicable, and enter upon the discharge of their duties. They shall first proceed to ascertain the indebtedness of Klamath county prior to the organization of Del Norte county, and when the amount of indebtedness is so ascertained they shall determine the amount of said indebtedness to be paid by Del Norte county, taking as a basis the sources of revenue of the two counties, and a statement of the amount so agreed upon as a just proportion of

the indebtedness of Klamath county, to be paid by Del Norte county as soon as ascertained, shall be forwarded to the Board of Supervisors of each county, and to the Auditor of Del Norte county. As soon as the Auditor of Del Norte county shall have received such statement, properly certified to by a majority of said Board of Examiners, he shall draw a warrant bearing interest at the rate of ten per cent. per annum on the Treasury of his county, in favor of the Treasurer of Klamath county, for the amount so apportioned, payable as hereinafter provided; and in case said Board of Examiners shall fail or omit to act in the premises, either to ascertain the amount of indebtedness of Klamath county, and to make such apportionment, then the Board of Supervisors of Klamath county shall ascertain the whole amount of indebtedness of Klamath county, and shall make out a certified statement of such amount, and transmit the same to the Auditor of Del Norte county, who upon receiving such statement shall draw a warrant on the Treasury of Del Norte county in favor of the Treasurer of Klamath county, as above specified, for one-third of the whole amount of such indebtedness.

Report accepted, and bill, with amendments, considered as in Committee of the Whole. After some time spent in considering the bill and amendment, the Committee rose, and reported the same back to the Senate.

The amendments were adopted, bill read a third time and passed.

Mr. Burnett made the following report:

*Mr. President :*

The Delegation from Yuba County, to whom was referred an Act to incorporate the city of Marysville, have had the same under consideration, and report the same back, and recommend that the bill be again referred to that Delegation with special instructions to make the following amendments:

Strike out the words "qualified electors," in the first line of section 8th of article second, and insert in their stead the words "Common Council."

Strike out the words "and Attorney," occurring in the second line of section 13th of article second; and insert the word "and" after the word "clerk" in the same line.

In section 17th, in the second line, strike out the words "and Attorney;" and insert the word "and" after the word "clerk" in the same line.

After the word "election," occurring in the fourth line, insert "and the Attorney shall enter upon the duties of his office upon the Monday following his election.

Amend section 7th of article third by inserting at the end of the twelfth provision the following words: "and \$150 per month to the Captain of Police."

Strike out the word "and" occurring after the word "forges" in the one hundredth line of the 7th section of article 3d; and after the word "shops," in the same line, insert the words "butcher's stalls, fish, game and meat markets.

In section 3d of article fourth, after the word "dollars" in the last line add the words "per annum."

After the last word of the sixth provision of section 7th of article 3d, add the following words: "at the charge of the city," and "also to provide for the owners of the land on both sides of any street, alley, or public grounds in said city,

keeping in good condition and repairs, at their own charge and expense, all sidewalks now constructed, or hereafter to be constructed, in such manner as the Common Council may direct, and to provide for enforcing such repairs.

After the words "to construct a bridge across the Yuba River at the," in section 7th of article third, strike out the word "eastern" and insert in the place thereof the word "southern."

After the words "to collect the taxes of the city," in section 6th of article fourth, insert the words "and all licenses, wharfages and landing dues, or other taxes or assessments."

After the last word in section 7th of article fourth, insert the following words: "provided that upon all licenses, wharfage and landing dues collected and paid over, he shall receive three per cent."

After the last word of section 7th of article third, add the following words: "Twenty-sixth, to provide by ordinance for the establishment of a City Pound for the compounding of all animals prohibited from running at large by ordinance in said city, and to provide for the sale of such animals, and to discharge all fines and charges thereon."

W. C. BURNETT,

Chairman.

Report accepted, and bill referred to the Delegation from Yuba with special instructions.

Mr. Bell, by leave, gave notice that at an early day he will introduce a bill for an Act to legalize certain assessments for taxes in Alameda County and providing for the collection of the same.

The Judiciary Committee, by leave, made the following report:

*To the President of the Senate:*

The Judiciary Committee have considered Senate bill No. 73, and recommend its passage with the amendments which accompany this report.

D. R. ASHLEY,

Acting Chairman.

Senate bill No. —, an Act concerning Delinquent Taxes in the County of Sacramento, was then taken up and considered as in Committee of the Whole.

Mr. Coffroth in the chair.

After some time spent in considering the bill and amendments, the Committee rose and reported the same.

Mr. Shaw moved that the bill, with amendments of the Committee and the amendment of the Committee of the Whole, be made the special order of the day for Monday next, at 12 o'clock M., which was adopted.



Mr. Ferguson, of Sacramento, moved that 240 copies of the bill as amended by the Judiciary Committee be printed, which was agreed to.

On motion of Mr. Sullivan, the Senate adjourned.

Approved February 9, 1857.

R. M. ANDERSON,  
President Senate.

Attest:

T WARD, Assistant Secretary.

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## IN SENATE.

MONDAY, February 9th, 1857.

Senate met pursuant to adjournment.  
President in the chair.  
Roll called.

Messrs. Soule and Sullivan were granted leave of absence for the day, and Mr. Goodwin for two days.

The journals of Saturday read and approved.

Mr. Shaw presented the petition of citizens of San Francisco, praying for the passage of a Sunday law, which was read and referred to the Committee on Public Morals.

Mr. McCallum, of the Judiciary Committee, made the following report:

*Mr. President :*

The Judiciary Committee have had under consideration Senate bill No. 69, entitled an Act to release B. S. Gray from liability to the State of California on certain bond.

Also, Senate bill No. 31, entitled an Act concerning the testimony of Children and other than White Persons.

Also, Senate bill No. 12, entitled an Act to change the name of Edward C. Higginbottom to Edward Compton Howard.

Also, Senate bill No. 75, entitled an Act to authorize the Governor to grant Pardons to certain Individuals, beg leave to report the said bills back to the Senate, and recommend that they be indefinitely postponed.

Your Committee have also had under advisement Senate bill No. 57, entitled an Act concerning County Judges, beg leave to offer a substitute for said bill, and recommend that the substitute be adopted.

J. G. McCALLUM,

Of Committee.

Mr. Shaw, of the Judiciary Committee, made the following minority report:

*Mr. President:*

The undersigned member of the Judiciary Committee, to whom was referred the Act concerning the testimony of Children and other than White Persons, respectfully submit the following minority report thereon.

Blackstone, the father of English Common Law, says, "All witnesses of whatever religion or country, that have the use of their reason, are to be received and examined, except such as are *infamous* or such as are interested in the event of the cause; all others are competent witnesses, though the jury from other circumstances judge of their credibility" (3 Bl., 369.) Lord Mansfield says (3 T. R., 300,) that, "The old cases upon the competency of witnesses, have gone upon very subtle grounds. But of late years the courts have endeavored as far as possible consistent with authorities, to let the objection go to the *credit* rather than to the competency of a witness." The English Judges long ago decided that a Mahometan may be sworn upon the Alcoran, and that a Bramin may be sworn according to the custom of India, and that their testimony may be received even in a criminal case. The Constitution of our State declares that "no person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief," hence Mahometans, Gentoos, Buddhists and Parsees, have a right to be witnesses if sufficiently intelligent and unobjectionable, except on religious grounds. With regard to the evidence of children, Blackstone says, "If an offense be charged to be committed on an infant under twelve years of age, she may still be a competent witness, if she hath sense and understanding to know the nature and obligation of an oath, or to be sensible of the wickedness of telling a deliberate lie." He also says it was long since settled by the twelve Judges of England, "that no hearsay evidence can be given of the declaration of a child who hath not capacity to be sworn, nor can such child be examined in court without oath; and moreover, that there is no determinate age at which the oath of a child ought either to be admitted or rejected, yet where the evidence of children is admitted, it is much to be wished, in order to render their evidence credible, that there should be some consistent testimony, of time, place and circumstances, in order to make out the facts, and that the conviction should not be grounded singly on the unsupported accusation of an infant under years of discretion." (4 Bl., 214.)

Professor Greenleaf says, in his very able and learned Commentaries on the Law of Evidence, "This examination of a child, in order to ascertain his capacity to be sworn, is made by the Judge at his discretion, though no age has been precisely fixed within which a child shall be conclusively presumed incapable; yet in one case a learned Judge promptly rejected the dying declaration of a child four years of age, observing that it was quite impossible that she, however precocious her mind, could have had that idea of a future state which is necessary to make such declarations admissible. On the other hand, it is not unusual to receive the testimony of children under nine, and sometimes even under seven years of age if they appear to be of sufficient understanding; it has been admitted even at the age of five years."—(1 W. on Ev., 367.)

From what has been quoted from the highest standard authorities in the

United States, it is proved that all persons whose testimony can be received under the provisions of this act are made competent witnesses by the common law of our country, and that it is the peculiar province of the Jury to decide upon the weight and credibility of their evidence. In this State, where there seems to be no necessity for prohibiting the testimony of any class of sane being from being taken, it has been proved by actual experience that the law rendering some of them incompetent as witnesses has been frequently taken advantage of to perpetrate the grossest wrongs; sometimes to commit the worst offenses upon our fellow creatures, whose nature seems to have been created similar but inferior to our own. Inasmuch as the existing law has operated deleteriously, and is still a source of great and very just complaint, and inasmuch as under the provision contained in the act the evidence of witnesses heretofore excluded is not made conclusive but only circumstantial proof, and therefore no danger of wrong or injury to our own race can be reasonably apprehended from the change being made, the undersigned reports in favor of the immediate passage of the bill.

WM. J. SHAW.

Mr. Shaw, of the Judiciary Committee made the following report:

*Mr. President :*

The Chairman of the Judiciary Committee having resigned his office of Senator, and the undersigned having been duly appointed to fill the vacancy in said Committee caused by his resignation, the question has arisen whether a person appointed to fill a vacancy on a Committee should be held to take the same position as Chairman which his predecessor occupied. In the House of Representatives a rule has been established to meet such cases, and the undersigned being fully convinced of the necessity and propriety of establishing a similar rule for this body, has cordially agreed with the Judiciary Committee in reporting for this purpose the following rule, substantially the same as that of the House of Representatives, which the Committee unanimously recommend for adoption by the Senate.

WM. J. SHAW.

RULE 45.—The first named member of any Committee shall be the Chairman, and in case of his resignation, absence or being excused, the next named member, and so on as often as the case may happen, until the Committee, by a majority of their number, elect a Chairman.

● Mr. Mandeville, of the Committee on Enrolled Bills, made the following report:

*Mr. President :*

The Committee on Enrolled Bills beg leave to report that they have examined Senate bill No. 80, entitled an Act to amend the sixty-seventh section of an Act entitled "An Act to regulate proceedings in Criminal Cases," passed May 1, 1857, and find the same correctly enrolled.

J. W. MANDEVILLE.

February 9, 1857.

Mr. McCallum, Chairman of the Committee on Contingent Expenses of the  
29s

Senate, to whom was referred the resolution relative to the disposition which has been made of the appropriation for the contingent expenses of the Supreme Court, submitted the following communication:

SUPREME COURT ROOMS, }  
February 5, 1857. }

Hon. J. G. McCALLUM, Chairman of the Committee on Contingent Expenses—

*Sir :*

In answer to your communication of this date, we reply, that the contingent fund of the Supreme Court for the year 1856 has been drawn out of the Treasury, upon warrants of the Controller's, issued upon bills certified by the Sheriff or Clerk of this Court, and approved by two Judges thereof. The original bills are now in the hands of the Controller or Auditing Committee. If we are allowed to take them from the files for the purpose of rendering an account, we will do so as soon as Mr. Beard, our old Clerk, returns to the city, which will be in a few days. We will be compelled to ask this indulgence, as we have no copies of the originals, and as he is more familiar than any one else with the disbursements of the Court.

Respectfully, your obedient servants,

H. C. MURRAY,  
D. S. TERRY.

Mr. Burnett made the following report:

*Mr. President :*

The Delegation from Yuba County, to whom was referred a bill for an Act to incorporate the City of Marysville, with special instructions, have made the amendments in accordance with the instructions, and respectfully recommend that the bill pass as so amended.

W. C. BURNETT,  
Chairman.

Report accepted, and bill placed on general file.

The following message was received from the Assembly:

*Mr. President :*

I am directed to inform the Senate that the Assembly, on the 7th inst., passed Senate bill No. 49, an Act to provide for taking the sense of the people of Tehama County, upon the question of the removal of the county seat thereof from the town of Tehama to the town of Red Bluffs.

Also, substitute to Senate bill No. 42, an Act concerning the salary of the County Judge of the County of San Francisco.

Also, Assembly bill No. 65, an Act to fund the Debt of the County of Sutter.

W. CAMPBELL,  
Clerk Assembly.



Assembly bill No. 65, an Act to fund the Debt of the County of Sutter, was read first time, rule suspended, read a second time, and referred to the Delegation from Sutter.

Mr. Taliaferro, introduced a bill for an Act to compensate George McGee and Mike Flaherty for services rendered in conveying passengers to and from San Francisco and the State Prison, which was read first time, rule suspended, read a second time, and referred to the Committee on Claims.

Mr. Taliaferro introduced a bill for an Act to compensate William Clark for services rendered in conveying passengers and freight to and from San Francisco and the State Prison.

Read first time, rule suspended, read a second time, and referred to the Committee on Claims.

Leave of absence was granted to Mr. Crandall for two days.

Mr. Westmoreland gave notice that he will at some future day introduce a bill to be entitled a "Stamp Tax Act."

Mr. Mandeville gave notice that he will on to-morrow introduce an Act amendatory of an act amendatory of "An Act to provide for the protection of Foreigners and to define their liabilities and privileges, passed March 13th, 1853, passed May 13th, 1854.

Mr. Bell gave notice that on to-morrow he will introduce a bill into the Senate to be entitled an Act amendatory of "An Act to provide for funding the outstanding Debt of the City of Oakland, and to prevent the creation of new debts by said City, passed April 30th, 1855.

On motion of Mr. Mandeville, leave was granted to J. S. Clark to withdraw his papers.

#### SENATE FILE.

Senate bill No. 77, an Act to repeal "An Act concerning the escape of Convicts of the State Prison," approved April 10th, 1855, was taken up, and on motion of Mr. McCallum, laid on the table.

Senate bill No. 69, an Act to relieve B. S. Gray from liability to the State of California on certain bonds, was taken up and indefinitely postponed.

Senate bill No. 31, an Act concerning the testimony of Children and others than White Persons, was taken up, and while under debate the hour having arrived for the special order of the day, the Senate went into Committee of the Whole for the consideration of Senate bill No. 73, an Act concerning Delinquent Taxes in the County of Sacramento.

After some time spent in consideration of the bill and amendments, the Committee rose and reported the same.

In Senate.

Senate bill No. 31, under consideration when the special order of the day was taken up, was again considered, and on motion of Mr. Mandeville, made the special order for to-morrow, February 10th, at 12 o'clock M.

Senate bill No. 73, with amendments of the Committee, and amendment of the Committee of the Whole, adopted, and on motion of Mr. Ferguson, considered engrossed, read a third time, the title amended, and passed.

On motion of Mr. Westmoreland, the Senate adjourned.

Approved, February 10th, 1857.

R. M. ANDERSON,  
President Senate.

Attest:

TRO. WARD, Assistant Secretary.

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## IN SENATE.

TUESDAY, February 10, 1857.

Senate met pursuant to adjournment.  
President in the Chair.  
Roll called.

Mr. McGee was granted leave of absence for four days.

Journals of yesterday read and approved.

Mr. Shaw presented the petition of citizens of San Francisco, praying for the reduction of the rates of pilotage at that port.

Read and referred to the Committee on Commerce and Navigation.

Mr. Walkup in the chair.

Mr. Bynum presented the petition of sundry citizens, praying the passage of a Sunday law.

Read and referred to the Committee on Public Morals.

Mr. De La Guerra, Chairman of the Committee on Agriculture, made the following report :

*Mr. President:*

The Committee on Agriculture, to whom was referred Assembly Bill No. 75,

An act concerning Hogs, have had the same under consideration, and recommend its passage.

DE LA GUERRA,  
Chairman.

Report received, and bill placed on general file.

Mr. De La Guerra, Chairman of the Committee on Agriculture, made the following report :

*Mr. President:*

The Committee on Agriculture, to whom was referred Assembly Bill No. 54, relative to the Board of Commissioners to regulate water courses for each township in this State, have properly considered the same, and recommend its passage.

DE LA GUERRA,  
Chairman.

Report accepted, and bill placed on general file.

Mr. Ashley made the following report :

*Mr. President:*

The Committee on Enrollment would report, that on Saturday, February 7th, 1857, said Committee presented to the Governor, for his approval, "an Act amendatory of, and supplementary to, an Act entitled an Act to authorize the Board of Supervisors of Placer county to levy a special tax, approved March 11th, 1856.

Also, an Act concerning the Receipts and Expenditures of the State.

D. R. ASHLEY.

Mr. Fiske, of the El Dorado Delegation, made the following report :

*Mr. President:*

The El Dorado Delegation, to whom was referred Senate Bill No. 82, an Act to reduce the salary of the County Judge of El Dorado county, would report the same back, and recommend its passage.

HENRY M. FISKE,  
G. J. CARPENTER,  
J. G. McCALLUM.

The following message was received from the Governor :

STATE OF CALIFORNIA, EXECUTIVE DEPARTMENT,  
Sacramento, Feb. 7th, 1857.

*To the Senate of California :*

I have this day approved an Act amendatory of, and supplementary to, an

Act entitled an Act to authorize the Board of Supervisors of Placer county to levy a special tax, approved March 11th, 1856.

Also, an Act concerning the Receipts and Expenditures of the State.

J. NEELY JOHNSON.

The following message was received from the Assembly :

*Mr. President :*

I am directed to inform the Senate, that the Assembly on the 7th inst., passed Assembly Bill No. 122, an Act to extend the time of collecting taxes in the county of Marin.

W. CAMPBELL,  
Clerk Assembly.

Assembly Bill No. 122, an Act to extend the time of collecting taxes in the county of Marin, was taken up.

Read first time, rule suspended, read a second time, and referred to the Senator from Marin.

Mr. Chase introduced a bill for an Act to authorize the Board of Supervisors of Nevada county to levy a special tax for county purposes.

Read first time, rule suspended, read a second time, and referred to the Nevada Delegation.

M. Bell introduced a bill for an Act amendatory of, and supplementary to, an Act to provide for funding the outstanding debt of the city of Oakland, and to prevent the creation of new debts by said city, passed April 20th, 1855.

Read first time, rule suspended, read a second time, and referred to the Judiciary Committee.

Mr. Wilson introduced an Act to authorize the construction of certain wharves upon the Straits of Carquines, and certain turnpike roads from the same.

Read first time, rule suspended, read a second time, and referred to the Committee on Corporations.

#### GENERAL FILE.

The additional rule, No. 45, to the standing rules of the Senate, reported by the Judiciary Committee, was taken up.

On motion of Mr. Shaw adopted.

Senate Substitute to Assembly Bill No. 62 was considered, and adopted, read a third time, and passed.



Assembly Bill No. 75, an Act to extend an Act concerning Hogs found running at large in the counties of Marin, Sacramento, San Francisco, Stanislaus, Alameda, Yuba, and Santa Clara, was taken up.

Mr. Taliaferro moved to amend by adding the Counties of Napa and Los Angeles, which was adopted, the bill read a third time and passed.

Senate bill No. 82, an Act to reduce the salary of the County Judge of El Dorado County, was considered engrossed, read a third time and passed.

Assembly bill No. 54, an Act to amend "An Act creating a Board of Commissioners, and the office of Overseer in each township of the several Counties of this State, to regulate Water Courses within their respective limits," passed May 15th, 1854, was read third time and passed.

Mr. Mandeville made the following report:

*Mr. President:*

The Committee on Enrolled Bills beg leave to report that they have examined Senate bill No. 49, entitled an Act to provide for taking the sense of the people of Tehama County upon the question of removal of the county seat thereof from the town of Tehama to the town of Red Bluffs, and find the same correctly enrolled.

J. W. MANDEVILLE.

#### UNFINISHED BUSINESS OF YESTERDAY.

Senate bill No. 12, an Act to change the name of Edward C. Higginbottom to Edward Compton Howard, was laid upon the table.

Senate bill No. 75, an Act to authorize the Governor to grant pardons to certain individuals, was on motion, indefinitely postponed.

Senate bill No. 57, an Act concerning County Judges, with substitute reported by the Judiciary Committee, was considered in Committee of the Whole.

After sometime spent in considering the bill and substitute, the Committee rose and reported the same.

In Senate.

The question being upon the adoption of the amendments of the Committee of Whole, was put and carried.

On motion, the bill as amended was ordered engrossed.

#### SPECIAL ORDER OF THE DAY.

The hour having arrived for the consideration of the special order of the day, Senate Bill No. 31, An Act concerning the testimony of children and other than white persons, was taken up.

Mr. Norman moved the indefinite postponement of the Bill, upon which the ayes and noes were demanded by Messrs. Merritt, Soule and Cosby, and taken with the following result, to wit:

AYES.

Messrs. Ashley, Burnett, Bynum, Chase, Coffroth, Cosby, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Johnson of El Dorado, McCallum, Melony, Maudeville, Merritt, Norman, Taliaferro, Walkup and Wilson—18.

NOES.

Messrs. Bell, Carpenter, De La Guerra, Fiske, Johnson of Sacramento, Shaw, Soule, Sullivan and Westmoreland—9.

So the Bill was indefinitely postponed.

Senate Bill No. 42, An Act concerning the salary of the County Judge of the county of San Francisco, was taken from the file and the amendment of the Assembly concurred in.

Mr. Shaw introduced a Bill to encourage science by granting to the California Academy of Natural Science a quantity of swamp and overflowed lands, which was read first time, rule suspended, read a second time and referred to the Committee on Public Lands.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly have, on yesterday, passed Senate Bill No. 43, An Act to fix the compensation of the District Attorney of the county of Siskiyou, and to repeal in part, the first section of an act entitled "An Act to fix the compensation of District Attorneys for the several counties of this State," passed May 4th, 1855.

Also, have concurred in Senate amendments to Assembly Bill No. 64, An Act to create the county of Buchanan, and to define its boundaries and provide for its organization.

Respectfully,

W. CAMPBELL,

Clerk Assembly.

February 10th, 1857.

*Mr. President:*

I am directed to inform the Senate that the Assembly to-day, have passed Assembly Bill No. 118, An Act to authorize the State Treasurer to issue to Milton Wolfskill a duplicate School Land Warrant.

Also, Senate Bill No. 47, An Act for the payment of Richard Cole.

Also, have indefinitely postponed Senate Bill No. 62, An Act to authorize the Board of Supervisors in and for the county of Marin, to levy a Special tax. •

W. CAMPBELL,  
Clerk Assembly.

February 10th, 1857.

Assembly Bill No. 118, An Act to authorize the State Treasurer to issue to Milton Wolfskill a duplicate School Land Warrant, was read first time, rule suspended, read a second time and referred to the Committee on Claims.

Mr. Merritt offered the following resolution:

*Resolved*, That the Committee on Finance be and are hereby instructed, to report to the Senate at as early a day as possible, an Appropriation Bill to meet the expenses of the State government.

Adopted.

Mr. Merritt offered the following resolution:

*Resolved*, That the Committee on Public Printing be and are hereby instructed to report to the Senate at as early a day as possible, if the prices paid for Public Printing are not too high, and if the same could not be done at less cost to the State.

Mr. McCallum moved to amend by directing the Committee to report a bill that had been previously referred to them upon that subject, back to the Senate on Thursday next, which was accepted.

Mr. Ferguson, of Sacramento, moved to amend by inserting "Monday" instead of "Thursday."

Amendment accepted, and resolution adopted as amended.

Mr. Johnson, of Sacramento, presented an account of Rivett & Co. for \$175 90 against the State, which was referred to the Committee on Claims.

Mr. Ashley, of the Committee on Enrollment, made the following report:

The Committee on Enrollment would report that Senate bill No. 80, an Act to amend the 67th section of an act entitled "An Act to regulate proceedings in Criminal Cases," passed May 1st, 1851, was this day presented to the Governor for his approval.

D. R. ASHLEY,  
Of the Committee.

On motion of Mr. Burnett, the Senate adjourned.

Approved February 11th, 1857.

R. M. ANDERSON,  
President Senate.

Attest:

G. S. EVANS, Secretary Senate.

## IN SENATE.

WEDNESDAY, February 11, 1857.

Senate met pursuant to adjournment.

President in the Chair.

Roll called.

Journal of yesterday read and approved.

Messrs. McKune and Watkins, Committee of the Assembly, appeared at the Bar of the Senate and made the following announcement:

*Mr. President :*

In accordance with a resolution of the Assembly, passed yesterday, we now acquaint the Senate that the Assembly, in the name of themselves and of the people of this State have impeached Henry Bates, Treasurer of the State of California, of misdemeanor in office, and that the Assembly will in due time exhibit particular articles of impeachment against him, and make good the same.

We demand in the name of the Assembly that the Senate take order for the appearance of the said Henry Bates to answer to said impeachment.

J. H. MCKUNE,

JOSEPH S. WATKINS,

Committee.

Mr. Ashley offered the following resolution:

*Whereas*, A committee of the Assembly of this State has appeared at the bar of this Senate and impeached Henry Bates, State Treasurer, and demanded that the Senate take order for the appearance of said party to answer the impeachment; therefore, be it

*Resolved*, That the Senate will take such order and will issue process against said Henry Bates, State Treasurer, upon presentation of the articles of impeachment.

Mr. Mandeville moved that it lay on the table, which was lost.

The question was then put on the adoption of the resolution, which was carried.

Mr. Bell presented the petition of Francis R. Crussel, praying for relief, which was referred to the Committee on Claims.

Mr. Shaw presented the petition of citizens of San Francisco, praying for the passage of a Sunday law, which was referred to the Committee on Public Morals.

Mr. Taliaferro presented the petition of William Fenner, praying for relief, which was referred to the Committee on Claims.

Mr. McCallum presented the petition of citizens of Placerville praying for the passage of a Sunday law, which was referred to the Committee on Public Morals.



Mr. Mesick was granted leave of absence for one day, and Mr. McGee for three days.

Mr. Crandall presented the petition of citizens of Mokulumne Hill, praying for the passage of a Sunday law, which was referred to the Committee on Public Morals.

Mr. Coffroth, of the Committee on Corporations, made the following report :

*Mr. President:*

The Committee on Corporations to whom was referred "an Act to amend an Act to incorporate the city of Monterey," report the same back with an amendment, and recommend its passage.

Amend on line first section first by striking out the words "above referred to" and insert "to incorporate the City of Monterey."

JAS. W. COFFROTH,  
Chairman *pro tem*.

Report accepted and bill placed on general file.

Mr. Melony, Chairman of the Committee on Engrossed Bills, made the following report :

*Mr. President:*

The Committee on Engrossed Bills have examined the substitute for Senate bill No 57, entitled an Act to amend an act entitled "An Act concerning County Judges," passed April 4th, 1854, and find the same correctly engrossed.

A. R. MELONY,  
Chairman.

Report accepted and bill placed on general file.

Mr. McCallum, of the Select Joint Committee of Senate and Assembly to ascertain what amount of revenue was paid into the State Treasury for the year preceding January 1st, 1857, etc., made the following report:

*Mr. President and Mr. Speaker :*

The Joint Committee of the Senate and Assembly appointed "to ascertain what amount of revenue was paid into the State Treasury for the year preceding January 1st, 1857; what proportion of the same was in coin and in gold dust; also, what amount in Controller's Warrants were so received," and "in case Controller's Warrants were substituted for cash, by whom and by what authority," make the following report:

The Committee have examined many witnesses, who would most probably have knowledge of such facts; there remain others, who reside a great distance from the capital, who might throw more light upon the subject; but it is deemed important to communicate, so far as their examination has gone, at this time.

The Committee finds the following facts:

1st. The whole amount received into the Treasury for the year preceding January 1st, 1857, in coin, in gold dust, and in Controller's Warrants, as follows:

In cash.....	\$701,120 86
In gold dust.....	18,656 72
In Controller's Warrants.....	165,344 90

Total amount.....\$885,122 48

The Counties paying in said Warrants, coin and gold dust, and the proportions of the same, will appear by the tabular statement herewith presented, as furnished the Committee by the Treasurer.

2d. That Controller's warrants were received in payment of revenue because of a published opinion of the Attorney General, that they could legally be received for a portion of the revenue by the people.

3d. That of the whole amount of Controller's warrants paid in for revenue, not one-tenth was paid in by the people; that about \$140,000 of Controller's warrants were substituted for cash, by the money paid by the tax payers.

4th. That while the Committee have no means of knowing the exact amount substituted by County Treasurers, they believe it would not exceed \$10,000.

5th. That the remainder of the warrants so paid in, amounting to about \$130,000, were substituted for speculation by the connivance and express direction of one Hughson, a regularly employed clerk in the Controller's office.

6th. That Controller's warrants were worth, at an average, about 70 cents on the dollar, and that the State, by means of such wrongful acts, was defrauded of near \$40,000.

7th. That there is no evidence before the Committee that the State Treasurer or Controller of State had any knowledge of such fraud.

8th. That assuming there was such ignorance of the transactions of the Controller's office for a period of several months, the Controller was guilty of negligence for not exercising that supervision over his office by means of which he might have detected the frauds which were being perpetrated by his clerk.

10th. That assuming that the State Treasurer was ignorant of the frauds which were being committed, that he also did not exercise that general supervision over his office which the law requires, and by means of which said frauds might have been detected.

11th. That the manner of keeping the books and papers in the Treasurer's office, is such that it is not possible to understand from them who, in person, made the different settlements, nor could the State Treasurer or his employees, give such information; but that in some instances, the Treasurer of State gave his receipt to County Treasurers on receiving only certificates of deposit from the banking house of Wells, Fargo & Co., which the Committee consider highly reprehensible and contrary to the spirit of the Statute passed in 1855, concerning State and County Treasurers.

It come within the knowledge of the Committee, during this investigation, that the proper manner in which County Treasurer's payments should be made into the State Treasury is as follows:

The County Treasurer presents to the Controller of State the abstract of the Auditor of his County, which shows simply the amount of funds paid him by the Collector; the Controller then makes out an order to the State Treasurer, directing him to receive from the County Officer the amount of funds named in the County Auditor's abstract, and directing him further to place to the credit of the General Fund, Interest Tax Funds of 1851-2, State Prison Interest Fund, Hospital Fund, Insane Fund, &c., such sums of said total amount paid in by the County Treasurer

as is in accordance with law. With this Controller's order the County Treasurer repairs to the State Treasury, and upon presenting the same with the funds therein specified to the Treasurer thereof, gets from that officer a receipt which, upon presentation to the Controller, entitles him to an acquittance from that officer. We find, however, that during the time Mr. Hughson officiated as Auditing Clerk of the Controller's office, he was in the habit of giving County Treasurers, or their agents, an order from the Controller directing the State Treasurer to receive the amount of funds named in the County Auditor's abstract, without in said order specifying its proper apportionment among the various "funds"—reserving the performance of that duty for a time of more leisure. And we find that the State Treasurer was in the habit of giving the County Treasurer a receipt upon this incomplete Controller's order, while the funds which said order directed him to receive were yet in the hands of the house of Wells, Fargo & Co., the Controller's Auditing Clerk thus having an opportunity, after the County Treasurer had received his final acquittance and before the State Treasurer could know whether the amount called for in the Controller's order was in cash or Controller's Warrants, of filling up the blanks in said Controller's order to suit his own schemes, could and did defraud the State to a large amount.

12th. While the Committee are not prepared to say that the acts or conduct of the State Treasurer, or of the Controller of State, amount to a misdemeanor in office, yet it is submitted that each of said officers is liable upon his official bond for the acts of his employees whereby the State has been deprived of any portion of her revenue; and while there is no direct testimony showing that the employees of the State Treasurer were cognizant of or participated in such frauds, the testimony is conclusive that the State suffered much loss in the substitution of Controller's Warrants for cash by the connivance and express directions of said Hughson, who, your Committee is informed, and believe, has left the State for the purpose of avoiding an investigation of this character.

Some testimony was taken relative to collateral subjects during this investigation, which were left to be prosecuted by the Assembly Committee appointed to investigate such matters, to the extent that County Treasurers have substituted Controller's warrants for cash in making their settlements with the State; it is submitted that they are liable upon their official bonds to the extent that the State has suffered loss thereby. For the correctness of the foregoing propositions the Committee rely mainly upon the testimony herewith filed, and partly from facts coming within their own observations, which cannot be further specified without making their report unnecessarily voluminous.

The Committee recommend the passage of the following joint resolution relative to frauds upon the revenue of the State:

*Resolved by the Senate, (the Assembly concurring.)* That the Attorney General be instructed to institute suits in all cases of fraud upon the revenue of the State, by reason of the substitution of Controller's warrants for money in the payment of taxes, where, in his opinion, the law arising upon the facts may enable the State to recover judgments.

All of which is respectfully submitted.

J. G. McCALLUM,

S. H. DOSH,

On behalf of Senate;

WM. C. WOOD,

WM. W. SHEPARD,

On behalf of Assembly.



At a meeting of the Special Committee upon "The Act for the better protection of the State Treasury, approved April 16th, 1856, held on the 7th February, 1857—present of Committee: Brent, Patrick, Hume, Burch, and Watkins—G. W. Whitman, Controller, having notified the said Committee that he wished the depositions of Messrs. Ball, Willis, Schenck, Vaughn and Redding to be taken, the Committee issued subpoenas for their attendance, and the said Controller appearing before the Committee, requested that Edward G. Vaughn should be first examined.

EDWARD G. VAUGHN, being duly sworn, deposes as follows:

I am a clerk in the Controller's office, have been since Col. Whitman has taken the office; have kept the books up to about the first of January last, that is the ledger, journal, and abstract books containing the amount of scrip drawn, money received by the Treasurer, and all other matters of that nature, since which time I have attended to the auditing department, and settling with the County Treasurers. Mr. Hughson attended to this business previously. I would say that it has been my course ever since I have kept the books, as well as directed by Col. Whitman, to endeavor to keep every day's work up, and in doing so I have worked much at nights and Sundays, and they never have been behind hand except a day or two during the sitting of the Legislature, or unless I was absent, and I believe that any one, whether book keeper or not, might know the balances in each fund within the space of perhaps half an hour; the ledger and abstract books both have indexes accompanying them, and have never been from the books; there are perhaps twelve or thirteen funds in the ledger under the head "Funds;" the page is given of the different funds in the index; by adding up two columns, subtracting one from the other, the amount in the fund is ascertained. There are but twelve days in the year, which days are when we receive the State Treasurer's report, that we can know what amount of money is in the State Treasury; the reason of this is that the Treasurer does, by law, pay out money without the Controller issuing his warrants. (The twelve days spoken of are once a month.) The Treasurer pays out interest money and the military fund without the Controller's warrants. We have no knowledge of any warrants being paid by the State Treasurer until the monthly report is furnished us, owing to the great hurry in the Treasurer's Office, as stated to us by the Treasurer's Clerk, and our own observation in issuing bonds as the funding Act had passed in April, '56. We received no State Treasurer's reports for the months of April and May until about the first of June, or latter part of May. At any time prior to the 25th of May last it would be impossible for us to arrive at the amount of money in the Treasury any nearer than the Treasurer's account or report for the month of March. By comparing the Treasurer's monthly report with our books, we can arrive at the amount of money there should be in the Treasury on any named day previous to the reception of the report. On any day we can tell what money has been paid into the Treasury, but cannot tell the amount that has been paid out till the Treasurer's report is received.

If I desired to ascertain the amount of money in the Treasury at any given time, I should go to the Treasurer's books, as it could not be ascertained from the Controller's office, except as before stated. I understand that the Board of Military Auditors draw upon the Military Fund, that is they have done so heretofore. I have always understood there was a Statute authorizing the Treasurer to pay the interest money out without the Controller's warrant. About the



middle of May, Gov. Johnson, Gen. Douglass and Attorney General Wallace, came to the Controller's office for the purpose of examining the books required by them as a Board of Examiners, and Mr. Hughson informed them that Col. Whitman's orders were that if they should come in his absence, to show them all the books, papers and vouchers that were in the office which they might call for, but let them make their own examinations, as the law contemplated such examination; that the books before spoken of were all laying on the desk, to which their attention was called. They, the Examiners, did not, to my knowledge, ask for any papers; there never has been any thing kept in the safe, save and except blank Controller's warrants, up to the 1st January, 1857. Col. Whitman has frequently told Mr. Hughson and myself to be very careful in keeping the safe at all times locked, except when using it. There was in the office when the Board of Examiners came, Mr. Hughson, Henry Whitman, and Mr. Skink, being a clerk in the office, and two ladies, Mrs. and Miss Whitman; and, as is my usual custom when in the presence of ladies, I put on my coat; I was there about a half an hour during the time the Board were there, and the ladies wished me to accompany them in town; I objected, as perhaps I might be needed; that I would wait a while longer; and upon being again asked, I did accompany the ladies. I heard nothing on the part of clerks discourteous to the Board; Col. Whitman's orders to the clerks were to treat them courteously and gentlemanly. I have repeatedly heard Col. Whitman say that he was ready and willing at any and all times, to have his books examined, as he believed they were all right, and had a set of clerks who understood their different departments. The feature of the law appointing a Board of Examiners that Col. Whitman particularly objected to, was in auditing accounts, as he considered that reflected upon his character. Since January last, I have occupied the position that Mr. Hughson previously occupied. Besides the ledger, journal and abstract books, there are the book in which the bonds issued are registered; the book in which redeemed scrip is registered; book containing account of warrants drawn; receipt book for warrants issued; order book, containing orders to Treasurer; receipt book of foreign miners license; and many others. For any thing I know, and to all appearances, Col. Whitman, Gov. Johnson and Gen. Douglass have been on friendly terms. Gov. Johnson often comes into the office; Gen. Douglass frequently; and Col. Whitman much in Gen. Douglass' office.

Mr. Vaughn produced a report and says: "this is the original and only report received from the Treasurer for the month of April last." I observe that this is not signed or certified to by the State Treasurer. I cannot say whether it is usual for the Treasurer to sign his reports or not. This report was handed to Controller's office by a clerk of the Treasurer, and is regarded and acted upon as his report. I think I told the Board of Examiners while they were in the office, that there were the books that contained the accounts; I did not designate the books, but there lay the ledger, journal and abstract book. I can't say that I told them that those books contained all the accounts, but I think some one else did.

*Question.*—Did you, or any of the clerks in the Controller's office, inform the Board of Examiners that the information of the entire business of the office could be procured from those certain books in the office?

*Answer.*—It strikes me that they were so informed; Gen. Douglass and Henry Whitman were in conversation, and I was in conversation with the ladies; I stepped into an adjoining room three or four times while the Board was in the office; Gen. Douglass frequently comes into the office and looks over the books himself; I can't say positively, but think Gen. Douglass knew on the day they came, the books from which the information could be had which they desired; I

think so because I think any one could find out the fact without being informed; I should think any one, without the assistance of the clerks, could go into the Controller's office and ascertain the general balances from the books.

EDW'D G. VAUGHN.

Subscribed and sworn to before me, this 7th February, A. D. 1857.

JOHN C. BURCH,

Member Committee.

B. B. REDDING, sworn and examined on the part of Col. Whitman, deposes and says:

My original business is book-keeping. I have been in the Controller's office upon matters of business as often, I should suppose, as once a week during the past three years. I have been often interested in a knowledge of a balance that may be in different funds; I always received the information, or frequently when the clerks were busy, have been requested to ascertain for myself. I have thus ascertained by an examination of the books a number of times, the mode of ascertaining the amount remaining in the different appropriations was simply to seek first from the index the page of the ledger, and then add the debt and credit columns, subtract one from the other, and the balance was the amount sought for. If all the accounts are kept in the same manner as the accounts of the appropriations are kept, I could as readily ascertain the balances in those funds. In my opinion, there should be nothing more mysterious or complicated in keeping the books of the State than those of any ordinary mercantile house. If none of the accounts extend beyond a page of the ledger each, any accountant could ascertain the balances of the twelve or thirteen different funds in two or three hours, but if a book-keeper had to investigate thoroughly each different transaction of the Controller's department, it would probably take weeks or months. I did not examine the vouchers, for the accounts I examined of the appropriations, merely ascertaining the amount by the charges on the ledger. I can't tell who first showed me the ledger; I think that Covington first directed me to it in Bell's time as Controller; on one occasion Mr. Willis, and I added up the amount drawn against the printing appropriation. Of late the information has been given me by Mr. Schenck.

B. B. REDDING.

Subscribed and sworn to before me this 7th February, A. D. 1857.

JNO. C. BURCH,

Member Committee.

Committee met the 9th February, 1857, at three P. M.

Present—Messrs. Brent, Burch, Hume and Patrick.

N. A. H. BALL, being duly sworn on the part of Col. Whitman, deposes and says:

I am an accountant, that is not keeping a set of books, but to examine and settle up complicated and difficult accounts. I have been employed to examine the books of Dr. McMeans, the Treasurer of State, which involved an examination of the books in the Controller's office; this latter office was the place where I

first went to get the evidence to base an examination of the Treasurer's accounts. The books of the Controller's office are no more complicated than those of any ordinary mercantile firm, the method of keeping them is much the same; any person of business capacity could ascertain and refer to any account from the index, which is always kept with the ledger, provided the index be written up. The process to ascertain the balance in any particular fund is simply to foot up the debit and credit of that fund upon the ledger account, provided it was posted up; to go through this process a knowledge of the simplest rules of addition and subtraction is only required. It would take a person familiar with figures and footing up figures no more than an hour to foot twelve or thirteen funds of a page each, as an average. From my knowledge of the Controller's and Treasurer's offices, if I desired to ascertain the amount of cash there should be in the vaults or hands of the State Treasurer, I should examine the Controller's books and papers to ascertain the amount paid into the Treasury, and should examine the Treasurer's vouchers for disbursements. To examine the vouchers of the Treasurer for the term of one month would take about a week's time, provided the business has not materially increased within the last two years, and provided the vouchers are kept separately, and the entries are made specifically. It would take no longer to foot up the debit and credit sides of the different funds on the Treasurer's books than on the Controller's, provided the same entries are made in each. I would not undertake to-day to examine the entries in the Controller's office of moneys paid into the Treasury, and compare the vouchers therefor, and to examine the entries in the Treasurer's office of money paid out, and compare the vouchers therefor, and agree to do the same in a less time than two months. I was near three months examining Dr. McMeans' books, and for two weeks of the time I had an assistant. If three persons, strangers to the office and the way the books and accounts are kept, and the proper entries to be made thereon, were to attempt an examination of the books and vouchers for the purpose of ascertaining the amount in the Treasury, without any aid or assistance, they would find it would take some time to do it, and difficult; they would not be able to do it at all if they knew nothing about books without assistance. I mean by this only so far as the Controller's books will show what should be on hand in the Treasury, which is what has been paid in; the amounts paid out by the Treasurer are reported by him to the Controller, and the State Treasurer's account credited the amount so reported. The vouchers consists of Controller's orders and Treasurer's receipts and reports.

N. A. H. BALL.

Subscribed and sworn to before me this 9th February, A. D. 1857.

JNO. C. BURCH,  
Member Committee.

E. G. VAUGHN, examined:

I think I left the Controller's office in company with the ladies, while a portion of the Board of Examiners were yet in the office. Gov. Johnson, I think, was then writing a letter; don't recollect why the Governor was writing, or the cause of it, but simply that it was a communication to the Controller's office.

*Question* (by the Governor)—About the 3d of January, I recollect of the Governor being in the office, and our examining the stubble book to ascertain the Controller's Warrants received by the Treasurer for taxes; so far as we could tell from



our books, we ascertained the number to be two or three items. I have no knowledge of the amount of Warrants ordered to be received by the State Treasurer. It strikes me one was from San Joaquin County—the amount I don't recollect. The aggregate amount of the Warrants ascertained from the stubble book amounted to but a few thousand—perhaps not to exceed ten thousand dollars. I told the Governor then, I knew of no other books from which we could ascertain the amounts received. There is any other book that would show the authorization to the State Treasurer to receive Warrants in payment of taxes. I recollect the Governor said it was singular there was no other account in the office by which it could be told. I then remarked that the fact was, the book did not seem to have been kept very correctly, but I would see that it was strictly attended to hereafter.

*Question*—Did I not desire you to give me information as to how much money there was in the Treasury on this same day, and to assist me in making those examinations?

*Answer*—You did. I endeavored to give what information I could; but there was one entry I do not now recollect whether I could or could not explain.

*Question*—Did you explain this item of \$31,300?

*Answer*—I do not recollect; think I gave some little information, and referred to Mr. Willis, who had made the entry and could better explain it.

*Question*—Was or was not a full explanation of that item necessary to a full understanding of the amount in the Treasury?

*Answer*—I think it was, but I cannot say; there are no other authorizations from which to ascertain the amounts received in Warrants by the Treasurer for taxes than the stubble book.

EDW. G. VAUGHN.

Subscribed and sworn to before me February 9th, 1857.

JNO. C. BUCH,

Member Committee.

CORNELIUS SCHENCK, on the part of Col. Whitman, being duly sworn; deposes and says:

I came into the Controller's office as a Clerk, about the 5th or 6th of May last. I was present in the Controller's office about the middle of May, when Gov. Johnson, Gen. Douglass and Wallace came there to examine the books; I was there until they left the office. They came for the purpose of making an examination of the books, as I understood it; Mr. Hughson stated to them in substance, that they were at liberty to do so. The books were shown them upon the desk, where they usually lay during the day, the three principal books that were necessary for the examination. My understanding was they wanted to examine certain accounts. Mr. Hughson also named that Col. Whitman was absent, and it was his wish for them to call when he was present. At this time, Mr. Hughson, Henry Whitman, Mr. Vaughn and myself, (clerks,) were in the office; there were also, Mrs. and Miss Whitman; Mr. Vaughan went out with the ladies, or immediately after them; I am not certain whether Mr. H. Whitman left or not, my best impression is that he did not. I heard no application made for any papers. Gov. Johnson wrote a communication and handed it to Mr. Hughson, stating that he asked that information as Executive; the information meant, was the subject of the communication; what it was I don't know. I am now book-keeper in the Controller's office; have been since the first of



January. The ledger and journal show the moneys that go into the State Treasury; the abstract book contains the appropriations and the different contingent funds; for instance, an appropriation is made for the Governor's salary, we enter this amount in the abstract book, and when any is drawn an entry is made upon the Journal; from thence of course, a charge is made of his month's salary and transferred to the Ledger; the books are very simple when understood.

*Cross Examined.*—I think Gen. Douglass said he ought to have a book-keeper to look over the accounts. I think Mr. Hughson replied that Col. Whitman instructed him to lay the books before them, as near as I recollect. It was in reply or when something was said about the book-keeper, when Mr. Hughson said he was simply obeying orders. I don't recollect of the Governor saying that if Mr. Whitman was there he would hardly refuse assistance; it might have been in reply to a remark of this kind that Mr. Hughson said he was obeying orders. I was new in the office and did not expect to be called on again about this; saw the Governor hand Mr. H. a written communication; don't recollect of the Governor reading it aloud; never saw the communication; I was engaged at first, but gave more attention to the close of the interview. I think I recollect something of an inquiry as to the amount of money in the Treasury from the books and vouchers in the office; don't recollect distinctly the reply of Mr. Hughson,—the substance was, that his instructions were to show them the books and papers they might call for, that they might make the examination for themselves. It was after this the Governor wrote the communication. I suppose Mr. Hughson was the head clerk at this time; he being the oldest clerk, I looked to him as the head of the office. Mr. Vaughn was the book-keeper at that time. Each clerk has his distinct department in the office. Col. Whitman never, to my knowledge, gave any one a supervision over the entire office. It would depend on the kind of information wanted, to whom one should apply. Mr. Hughson did not particularly direct the affairs of the office. With relation to the books, Mr. Vaughn had the entire control; any information from the books was acquired from Mr. Vaughn; Mr. Hughson frequently inquired of him for information from the books. Mr. Hughson did the most of the talking on the part of the Controller's office at the time referred to.

CONELIUS SCHENCK.

Subscribed and sworn to before me, this 9th February, 1857.

JOHN C. BURCH,  
Member Committee.

GEN. DAVID F. DOUGLASS, states:

That for the purpose of correcting his former statement, he wishes added thereto —“Up to the time mentioned in the first paragraph of my statement, when Col. Whitman and myself had a conversation; since that time we have been friendly. When we visited the Controller's office, no books were pointed out to me as containing the desired information, nor were any books specifically pointed out to us as containing this information. The books, generally, were pointed out to us. I considered Mr. Hughson the principal person in the office, he apparently acting as chief clerk and spokesman on that occasion. I may have spoken to Mr. Vaughn and to Mr. H. Whitman that day in the office. I stated on my former examination that Mrs. and Miss Whitman were present in the office when we went there,

but upon suggestion of the Committee of the Assembly, this mention of the ladies was not placed in the statement.

DAVID F. DOUGLASS.

Subscribed and sworn to before me February 9th, 1857.

JNO. C. BURCH,  
Member Committee.

WM. WILLIS' testimony :

In the testimony rendered by me a few days since, I stated that the Controller drew his Warrants for the contingent expenses of the Legislature without the previous approval of the Board of Examiners. This is an error, as I find upon examination such has never been the case.

WM. WILLIS.

Subscribed and sworn to before me this 9th February, 1857.

JOHN C. BURCH,  
Member Committee.

Gov. JOHNSON :

I stated in my former examination that Mrs. and Miss Whitman were present when we entered the Controller's office, but at the suggestion of the Committee of the Assembly, no mention was made in the statement of this fact. About the 6th or 7th June, 1856, the previous unpleasant relations existing after the passage of this Act, between Col. Whitman and myself up to that time, ceased, and have been of the most agreeable character since. When I gave my statement the other day, I did not recollect that I had transmitted a second communication to the Controller's office similar to the one before spoken of, dated on or about the 4th of May last; upon examination of papers in my office since, I find I did on the 28th of May transmit a communication to the Controller's office, requesting certain information therein designated. This was delivered to Mr. Hughson, Clerk in Controller's office, and he replied thereto by communication. His correspondence is herewith submitted. But the information sought was never furnished me until in the annual report, as before stated, and specific information given me about the 1st of January, of the present year.

J. NEELY JOHNSON.

Subscribed and sworn to before me this 9th February, 1857.

JOHN C. BURCH,  
Member Committee.

*Copy of a Letter to Controller, May 28th, 1856, from J. Neely Johnson.*

EXECUTIVE DEPARTMENT, }  
Sacramento, Cal., May 28th, 1856. }

Col. G. W. WHITMAN, Controller of State,

Or his Deputies, or persons in charge of Controller's Office:

I desire the following information to be furnished from the books of the Controller's Office of this State:

1st. A statement of the amounts of Controller's warrants which have been drawn in detail, and in whose favor on each separate fund and appropriation made, with the dates thereof from the 1st day of January, 1856, to the 16th day of April, 1856, inclusive.

2d. A statement similar to the above from the 16th day of April, 1856, to the 28th day of May, 1856, inclusive.

4th. A statement of the amounts of money in the State Treasury in the several different funds, separately stated, at the present date, as shown by the books in the Controller office.

3d. A statement of the balance remaining undrawn by Controller's warrants in the several different appropriations made by the Legislature of 1856; and the foregoing furnished to me by 2 o'clock to-morrow.

Very respectfully, your obedient servant,

J. NEELY JOHNSON.

*G. W. Whitman's Letter, per W. S. Hughson.*

CONTROLLER'S OFFICE, }  
Sacramento, May 29th, 1856. }

To His Excellency J. NEELY JOHNSON,

Governor of the State of California—

SIR: In answer to your communication of the 28th inst., requesting a statement from this office of the amount of funds in the State Treasury, &c., I have the honor to state that it is impossible for me at this time to furnish the desired information, from the fact that I have no knowledge of the disbursements made by the Treasurer of State during the *present month*, having received no report from that office since the 30th day of April, 1856. The Treasurer being required by law to report to this office monthly the operations of the Treasury, his report for the month of May will doubtless be received on the last day of the month. Upon the receipt of the same I will immediately transmit to your Excellency a statement of the condition of the several funds.

A detailed statement of Controller's warrants drawn upon the Treasurer from the 1st day of January to the 28th day of May, 1856, and also of the unexpended balances of all appropriations made by the last Legislature, will be given at as early a day as possible.

I have the honor to be, most respectfully, your obedient servant,

G. W. WHITMAN,

Controller of State.

Per W. S. HUGHSON, Clerk.

*T. M. Read's Deposition.*

*Interrogatory 1st.*—State the particulars of the mode of your settlement as County Treasurer of El Dorado County with the Treasurer of State.

*Interrogatory 2d.*—And if at any time you received the sum of two hundred dollars as a consideration for paying the funds into the office of Wells, Fargo & Co., Sacramento.

*Interrogatory 3d.*—And if you at another time received the sum of eight hundred dollars in the same way.

*Interrogatory 4th.*—State the amount of cash and Controller's warrants paid into the office of Wells, Fargo & Co., separately at each of your settlements, and how you obtained your receipt from the State Treasurer; with what person you had the understanding with regard to the \$200 and \$800, and how and from whom you received the same.

*Interrogatory 5th.*—State the names of all the persons whom you know were cognizant of the particulars of your settlement.

*Interrogatory 6th.*—State whether you know of any other County Treasurers receiving any consideration for making their settlements through Wells, Fargo & Co.'s Office.

*Interrogatory 7th.*—State any other facts pertinent to these interrogatories within your knowledge.

T. M. READ, County Treasurer of El Dorado County, being by me, County Clerk in and for said County, first duly sworn, deposes and says:

*Answer to Interrogatory 1st.*—My first and fourth settlements were made by the payment of the amount due the State into the office of the State Treasurer. My second and third settlements were made by giving Mr. Hughson, principal clerk in the Controller's Office, at his instance, a certificate of special deposit on Wells, Fargo & Co., upon which he gave me my discharge.

*Answer to 2d.*—I have never received two hundred dollars, eight hundred dollars, nor any other sum "as a consideration for paying the funds into the office of Wells, Fargo & Co.," to my knowledge.

*Answer to 3d.*—I did not.

*Answer to 4th* —In my first and second settlements I paid in the total amounts in cash.

In my third, to the best of my knowledge, I paid in :

In cash.....	\$ 1,126 50
In Controllers's warrants and in cash.....	14,402 35

Making a total of.....	\$15,528 85
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In my fourth settlement I paid in:

In warrants.....	\$ 2,357 87
In cash.....	6,496 55

Making a total of.....	\$ 8,854 42
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I obtained for my first, second and third settlements each a receipt or discharge from Mr. Hughson, Clerk in the Controller's Office, and for my fourth and last from Mr. Vaughn, Clerk in the same office. The sum of two hundred dollars was added to my commission on my second settlement by Mr. Hughson,



but for what reason I was not informed. I had no understanding with any person in regard to the two hundred dollars. The eight hundred mentioned I know nothing about.

*Answer to 5th.*—No person to my knowledge except Mr. Hughson and Mr Vaughn.

*Answer to 6th.*—I do not.

*Answer to 7th.*—At the time of making my second settlement I did not know the reason why my commissions were increased. Mr. Hughson refused to tell me, saying it was perfectly legitimate; nor did I know at the time of the intention of the Treasurer to take State warrants from County Treasurers in making their settlements with the State. When I received a statement from Mr. Hughson showing the amount due the State, he told me that for the purpose of facilitating my settlement to leave the amount on deposit at the office of Wells, Fargo & Co., and bring him the certificate, and he would give me my discharge, alleging that Wells, Fargo & Co. were the financial agents of the State. In this way I completed my settlement. It has been my custom to send my funds to Sacramento through Wells, Fargo & Co.'s Express. In each case I have let the funds remain in their office in Sacramento until I ascertained the amount due the State, then made my settlement as above stated.

T. M. READ.

STATE OF CALIFORNIA, County of El Dorado.

I, D. C. McKenney, County Clerk in and for said County, do hereby certify that on the 30th day of January, A. D. 1857, the foregoing examination was had, and this deposition was carefully read to him, and he did not desire to make alteration therein.

Witness my hand and official seal this 30th day of January, 1857.

[SEAL.]

D. C. MCKENNEY,  
County Clerk of El Dorado County.

D. P. TALMADGE being sworn, states :

That he resides in Coloma, El Dorado county—that during the past summer he was the owner and holder of some State Scrip, some of which he purchased and some issued directly to him; that believing from information received by him through the papers and otherwise that he could procure cash for his scrip at par, we went to T. M. Read, the Treasurer of El Dorado county, gave to him two pieces of scrip, one for three hundred and fifty-five dollars, and the other for two hundred and seventy dollars, which he agreed to pay into the Treasury of the State, as cash, and to return me the cash for the same. Mr. Read has not yet paid me, but told me he had paid the scrip in his settlement with the Treasurer, and promised to pay me interest on the amount. The scrip thus paid by me to Mr. Read was not paid by me in payment of taxes, but was given by me and received by him for the purpose of being paid into the State Treasury, in lieu of

cash collected by him ; Mr. Read further told me he believed the County Treasurers received a bonus for leaving their money in the hands of Wells, Fargo & Co., and authorizing them to make the settlement—that Mr. Hughson intimated to him that if he would leave his money with Wells, Fargo & Co. to make the settlement for him, the thing should equal all round.

D. P. TALMADGE.

The foregoing testimony of D. P. Talmadge was regularly taken before the Assembly Special Committee, and it being foreign to the subjects committed to them, but material to the subjects of which your Committee have charge, we take the liberty of transferring it to you.

A. P. CATLIN,  
Chairman Special Committee.

Committee met February 10th, 1857.

Dr. BATES made the following statement :

In explanation of the statement above made, "that there is no other contract than the one I have stated, that no contract as to when the interest is to be forwarded," I wish it to be understood of course, "that I took a receipt for the money paid, as well as a contract specifying the manner in which the said money shall be paid, this being the usual course in such cases."

HENRY BATES.

Mr. McCallum moved the adoption of the report, which was agreed to.

The Special Committee, to whom was referred Senate Bills Nos. 24 and 25, made the following report:

*Mr. President :*

The Special Committee, to which was referred Senate Bills Nos. 24 and 25, have had the same under consideration, and recommend the following amendments to Senate Bill No. 24, viz: Insert after the word "charge" in line twenty-one, the words *or received in payment*. Insert after the word "charge" in line thirty-one, the words *or receive in payment*. Insert after the word "charge" in line thirty-four, the words *or receive in payment*. Insert after the word "charging" in the thirty-seventh line, the words *or receiving in payment*.

Your Committee would recommend that Senate Bill No. 25 be amended as follows: Insert after the word "charge" in the ninth line, the words *or receive in payment*. Insert after the word "charge" in the twentieth line, the words *or receive payment*. Insert after the word "charge" in the twenty-third line, *or receive payment*. Insert after the word "charging" in line twenty-seven, the words *or receiving in payment*.

The Committee are of the opinion that all legalized monied monopolies are burthensome to the people. That in a free country, a fair and honorable competition should be encouraged in all of the business pursuits of life; that nothing could more retard the commercial prosperity and progress of this young and vigorous State, than to place its entire carrying trade, on all its navigable waters, under the sole control of a legalized monopoly. Taking this view of the

subject and believing that the Legislature has full power under the Constitution, over the whole subject, we earnestly recommend the Bills to the favorable consideration of the Senate.

Very respectfully,

A. R. MELONY,

W. B. NORMAN.

Mr. Coffroth made the following minority report:

*Mr. President:*

The undersigned, a member of the Special Committee, to whom was referred two Bills for the change of certain portions of the Incorporation Laws, regrets that a difference of opinion exists in the Committee, and that he is compelled to dissent from a recommendation for the passage of the measure. The amendments proposed to the Bill under consideration, it is presumable, are proper, but the undersigned cannot conceive that the principle of the Bills is right or founded upon good policy, or that honesty which should characterize dealings with the State or her citizens.

A Corporation has been formed under the general laws of the State for engaging in the transportation business. This Act constitutes a contract between the parties incorporating and the State,—and the question arises, can we impair its obligations? Can we interfere in rights acquired by law? Our Constitution prevents the exercise of such extraordinary power, and the policy of every community would condemn it. It is true that the formation of gigantic corporations in a Republican government is to be deplored, and heartfelt regret must be experienced by every well-wisher of the State; that those who have gone before us have granted the power to create them; but still we find them existing under sanction of law; under the auspices of a solemn Legislative enactment; that they have acquired right, under the franchises conferred, and the State under its organic law, is compelled to see that those franchises are not encroached upon. It is very true and amply conceded that the question of the passage of the Bill to affect companies hereafter to be formed, is one simply of policy and not one of principle, as when applied to Corporations now in existence. The latter is a Judicial question, and the undersigned believes that the weight of decision by the proper tribunals is heavily against the Constitutionality of such an Act.

The undersigned, therefore, would recommend that both Bills be rejected.

JAS. W. COFFROTH.

On motion of Mr. Coffroth the Bills were made the special order of the day for Wednesday, February 18th, 1857, at 12 o'clock M.

The Enrolling Committee made the following report:

*Mr. President:*

Your Committee on Enrolled Bills have examined and found correctly enrolled an Act for the payment of Richard Cole for services rendered the State, provided for by an Act passed April 12th, 1853.

Also, an Act to fix the compensation of the District Attorney for the County of Siskiyou, and to repeal in part the first section of an Act entitled "an Act to fix the compensation of District Attorneys for the several Counties of this State," passed May 4th, 1855.

Also, an Act concerning the salary of the County Judge of the County of San Francisco.

D. CRANDALL,

Chairman.

The following message was received from His Excellency the Governor:

STATE OF CALIFORNIA, EXECUTIVE DEPARTMENT, }  
Sacramento, Feb. 10, 1857. }

*To the Senate of California:*

I have this day approved an Act to amend the 67th section of an act entitled "an Act to regulate proceedings in Criminal Cases," passed May 1st, 1851.

J. NEELY JOHNSON.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly, on the 7th inst., passed Assembly bill No. 32, an Act supplementary to an Act to apportion the Senatorial and Assembly Districts of this State, passed May 18th, 1853.

Also, Assembly bill No. 49, an Act amendatory of an Act fixing the time of holding the Court of Sessions, County Court, and Probate Court, in and for the County of Santa Clara, passed April 18th, 1856.

Also, Assembly bill No. 111, an Act to change the time of holding the Courts in Yolo County.

Respectfully,

W. CAMPBELL,

Clerk of Assembly.

February 11th, 1857.

Assembly bill No. 32, an Act supplementary to an Act to apportion the Senatorial and Assembly Districts of this State, passed May 18th, 1853, was read first and second time, and referred to the Judiciary Committee.

Assembly bill No. 49, an Act amendatory of an Act fixing the time of holding the Court of Sessions, County Court, and Probate Court, in and for the County of Santa Clara, passed April 18th, 1856, was read first and second time, and referred to the Judiciary Committee.

Assembly bill No. 111, an Act to change the time of holding the Courts in Yolo County, was read first and second time, and referred to the Yolo Delegation.

Mr. Melony introduced a bill for an Act concerning Roads and Highways, which was read first and second time, and referred to Committee on Roads and Highways.



## SPECIAL ORDER OF THE DAY.

Mr. Mandeville in the chair.

Senate bill No. 4, an Act for the better protection of Mining Interests, the special order of the day, was considered.

The question being on the reconsideration of the vote rejecting the bill, was put and carried.

Mr. McCallum moved that the bill be recommitted to the Judiciary Committee with special instructions to insert after the word "wilfully" the words "and feloniously," which was carried, and the bill recommitted.

## GENERAL FILE.

Assembly bill No. 96, an Act to amend "an Act to incorporate the City of Monterey," approved May 11th, 1853, reported from Committee on Corporations, with amendments, was taken up, amendments of Committee adopted, read third time and passed.

Senate bill No. 57, an Act concerning County Judges, was taken up, and on motion of Mr. Ferguson of Sacramento, was recommitted to the Judiciary Committee, with special instructions to amend the bill by inserting the words "County of Yolo" in the proper place.

Mr. Johnson, of Sacramento, gave notice that he will on a future day introduce a bill to provide for the reclamation of certain Swamp and Overflowed Lands within the City of Sacramento.

The Special Committee to whom was referred Senate Bill No. 54, made the following report:

The Special Committee to whom was referred Senate Bill entitled "an Act to grant the right to construct a Bridge across the Sacramento river between the city of Sacramento and the town of Washington," have had the same under consideration and recommend the passage of the same with the following amendments. On the fifth line of the second section immediately preceding the word "street" insert "J;" and on the seventh line of said section, immediately preceding the word "street," insert the word "Margaret," also in the fifth line of the third section, immediately after the word opening," insert the words "*to be not less than sixty feet wide;*" also strike out section eight of the bill.

W. I. FERGUSON,  
S. BYNUM.

Mr. Ferguson of Sacramento moved that 240 copies of the bill be printed and made the special order for Tuesday next, February 17th, at 12 o'clock M.

Mr. Johnson moved to refer to the Committee on Commerce and Navigation.

Lost.

Question on printing 240 copies was put and carried, and the bill made the special order of the day for Tuesday, February 17th, 1857, at 12 o'clock, M.

Mr. McCallum, of the Judiciary Committee, by leave, made the following Report :

*Mr. President:*

The Judiciary Committee to whom was referred "a Bill for the better protection of Mining Interests" with special instructions, have amended the same according to said instructions, by inserting the word "feloniously" in the proper place.

McCALLUM,  
Of Committee.

Mr. Merritt moved the bill be referred to the Committee on "Mines and Mining Interests," upon which the ayes and noes were demanded by Messrs. Fiske, McCallum and Walkup, and taken with the following result :

AYES.

Messrs. Bell, Burnett, Bynum, Coffroth, De la Guerra, Ferguson of Sacramento, Johnson of Sacramento, Melony, Mandeville, Merritt, Norman, Soule, Taliaferro, Walkup, Westmoreland—15.

NOES.

Messrs. Ashley, Carpenter, Chase, Crandall, Dosh, Ferguson of Sierra, Fiske, Johnson of El Dorado, McCallum, Shaw, Sullivan, Wilson—12.

So the motion prevailed, and the bill was so referred :

Mr. De la Guerra made the following report :

*Mr. President :*

The Special Committee to whom was referred "an Act relative to the Board of Supervisors of Santa Barbara county," have had the same under consideration and recommend its passage.

DE LA GUERRA,  
Chairman.

Report accepted and bill ordered to be engrossed.

Mr. Ashley made the following report :

*Mr. President:*

The Committee on Judiciary report Senate bill No. 57, having inserted the word "Yolo," as the Committee was instructed to do.

D. R. ASHLEY.

Report accepted and bill considered in Committee of the Whole ; after some time so spent, the Committee rose and reported progress.

In Senate, the question being upon the adoption of the amendments of the Committee of the Whole was put and carried, and on motion the bill was ordered to be engrossed.

On motion of Mr. Taliaferro, Senate bill No. 77, "an Act to repeal an Act concerning the escape of convicts of the State Prison," approved April 10th, 1855, was taken from the table.

Mr. McCallum moved the indefinite postponement of the bill, upon which the ayes and noes were demanded by Messrs. Taliaferro, Coffroth and Soule, and taken with the following result :

#### AYES.

Messrs. Ashley, Bell, Burnett, Chase, Crandall, Dosh, Fiske, Johnson of Sacramento, McCallum, Melony, Mandeville, Norman, Shaw, Walkup—14.

#### NOES.

Messrs. Coffroth, Ferguson of Sacramento, Ferguson of Sierra, Johnson of El Dorado, Merritt, Soule, Sullivan, Taliaferro, Westmoreland, Wilson—10.

So the motion prevailed and the bill was indefinitely postponed.

Mr. Crandall, Chairman of the Committee on Enrollment, made the following report :

*Mr. President :*

Your Committee on Enrolled Bills have presented to his Excellency, the Governor, "an Act to provide for taking the sense of the people of Tehama county upon the question of removal of the County Seat thereof from the town of Tehama to the town of Red Bluffs"

Also "an Act for the payment of Richard Cole, for services rendered the State."

Also "an Act to fix the compensation of the District Attorney for the county of Siskiyou."

Also "an Act concerning the salary of the County Judge of the county of San Francisco."

D. CRANDALL,

Chairman.

On motion of Mr. Westmoreland, the Senate adjourned.

R. M. ANDERSON,

President Senate.

Attest:

GEO. S. EVANS, Secretary Senate.

## IN SENATE.

THURSDAY, February 12th, 1857.

Senate met pursuant to adjournment.  
 President in the chair.  
 Roll called.  
 Journals of yesterday read and approved.

Mr. Johnson of Sacramento, and Messrs. Goodwin and Mesick, were severally excused for one day.

Mr. Bell presented the petition of citizens of Alameda county praying for the passage of a Sunday Law, which was referred to the Committee on Public Morals.

Mr. Shaw presented petitions from citizens of San Mateo county, praying for an Act to legalize certain elections in said county, which were referred to the San Francisco Delegation.

Mr. Melony presented the petition of H. M. Fanning, and the memorial of the Trustees of the State Insane Asylum, relative to matters connected with that institution, which were referred to the Committee on Claims.

Mr. Taliaferro made the following report:

*Mr. President :*

Your Committee, to whom was referred Assembly Bill concerning the delinquent taxes of Marin county, would respectfully submit that a general Bill concerning the delinquent taxes of the State, passed the Senate some days since, and any Special Bill of this nature would be unnecessary. They would, therefore, respectfully recommend that this Bill lay upon the table until some definite action is taken upon the Senate Bill in the Assembly.

Report adopted and Bill laid on the table.

Mr. Melony, Chairman of the Committee on Engrossed Bills, made the following report:

*Mr. President :*

The Committee on Engrossed Bills have examined substitute for Senate Bill No. 57, entitled "An Act to amend an act concerning County Judges," passed April 4th, 1854.



Also, Senate Bill No. 63, entitled "An Act relative to the Board of Supervisors of Santa Barbara county," and find the same correctly engrossed.

A. R. MELONY,  
Chairman.

The following message was received from the Governor:

STATE OF CALIFORNIA, EXECUTIVE DEPARTMENT, }  
Sacramento, February 11th, 1857. }

*To the Senate of California :*

I have, this day, approved "An Act concerning the salary of the County Judge of the county of San Francisco."

Also, "An Act for the relief of Richard Cole."

J. NEELY JOHNSON.

The following message was received from the Assembly:

*Mr. President :*

I am directed to inform the Senate that the Assembly yesterday passed Assembly Bill No. 15, "An Act to guard against the destruction of property by means of sparks from the chimneys of steamers navigating certain waters of this State."

Also, Assembly Bill No. 85, "An Act to amend an act to change the time of holding the County Court and Court of Sessions of the county of Calaveras, and to change the manner of summoning a jury for the County Court of said county," approved April 27th, 1855.

Also, have concurred in Senate amendments to Assembly Bill No. 62, "An Act to incorporate the city of Marysville."

W. CAMPBELL,  
Clerk of Assembly.

Assembly Bill No. 15, "An Act to guard against the destruction of property by means of sparks from the chimneys of steamboats navigating certain waters of this State," was taken up, read first time, rule suspended, read a second time, and referred to the Committee on Agriculture.

Assembly Bill No. 85, "An Act to amend an act to change the time of holding the County Court and Court of Sessions of the County of Calaveras, and to change the manner of summoning a jury for the County Court of said county," approved April 27th, 1855, was read first time, rule suspended, read a second time and referred to the Delegation from Calaveras.

Mr. Norman introduced a Bill for an Act to amend an act entitled "An Act to fund the debt of the county of Calaveras and provide for the payment thereof," approved May 3d, 1852, which was read first time, rule suspended, read a second time and referred to the Delegation from Calaveras.

Mr. Shaw introduced a Bill for an Act to amend the 45th Section of an Act concerning officers, which was read first and second time, rule suspended, bill considered engrossed, read a third time and passed.

Mr. Melony introduced a Bill for an Act for the relief of H. N. Fanning, which was read first time, rule suspended, read a second time and referred to Committee on Claims.

Mr. Coffroth gave notice that he will, at an early day, introduce a Bill to extend the time of settlement of the Sheriff of Tuolumne county.

Mr. McCallum introduced a Joint Resolution relative to the cancellation of Controller's warrants and matters connected therewith.

Mr. Shaw offered the following amendment:

And that they report by Bill, if in their opinion some provision of law be necessary, to correct and revise the books and accounts in the offices of the Treasurer and Controller.

Adopted.

Mr. Ashley offered the following amendment:

Strike out all after the word "appointed" in the 5th line, and insert "to perform the duties of cancelling warrants and making the examination of books and papers properly, incident thereto, as provided in Section eleven of an act entitled "An Act prescribing the mode of receiving, keeping and paying out the public funds," passed January 31st, 1850.

Adopted.

Mr. Mandeville offered the following amendment:

*Provided*, the Committee shall not have power to act after the adjournment of this Legislature.

Adopted.

The Resolution as amended, was then adopted; whereupon the President announced Messrs. McCallum, Ashley and Mandeville said Committee.

#### GENERAL FILE.

Senate Bill No. 63, an Act relative to the Board of Supervisors of Santa Barbara county, was read a third time and passed.

Senate Bill No. 57, an Act concerning County Judges, was read third time and passed.

Mr. Taliaferro moved to take from the table Assembly Bill No. 44, an Act relating to the officers of San Mateo county and prescribing their duties.

Lost.

Mr. McCallum moved a reconsideration, which was carried.

Question on taking from the table put and carried.

Mr. Taliaferro moved its reference to San Francisco Delegation.

Mr. Walkup in the chair.

Mr. Norman moved the indefinite postponement of the Bill, which after some debate was withdrawn.

On motion of Mr. Melony, the Bill was referred to a Special Committee of five, with special instructions to ascertain at what election the officers were elected.

The President announced as said Committee, Messrs. Shaw, Walkup, Norman, Ferguson of Sacramento, and Sullivan.

The following message was received from the Assembly:

*Mr. President :*

I am directed to inform the Senate that the Assembly have, on to-day, passed Senate Bill No. 91, an Act to amend the 45th Section of an Act concerning officials.

W. CAMPBELL,  
Clerk Assembly.

February 12th, 1857.

President in the chair.

On motion of Mr. Mandeville, the Senate adjourned.

Approved February 13th, 1857.

R. M. ANDERSON,  
President Senate.

Attest:

G. S. EVANS, Secretary Senate.

## IN SENATE.

FRIDAY, February 13, 1857.

Senate met pursuant to adjournment.

President in the chair.

Roll called.

Journal of yesterday read, amended, and approved.

Mr. Ashley presented the petition of James Stokes, asking the passage of an Act allowing him to make private sale of the property of Maria Josefa Soto, deceased.

Referred to the Judiciary Committee.

Mr. Dosh presented a petition from the Board of Supervisors of Shasta County, praying the amendment of an Act to create a Board of Supervisors in the Counties of this State, and to define their duties and powers, approved March 20th, 1855.

Referred to Shasta Delegation.

Mr. Ashley made the following report:

*Mr. President:*

The Judiciary Committee, to whom was referred Assembly bill No. 49, entitled an Act amendatory of an Act fixing the time of holding the Court of Sessions. County Court and Probate Court in and for the County of Santa Clara, passed April 13th, 1856, have had the same under consideration, report the same back, and recommend its passage.

Also, Senate bill No. 86, an Act amendatory of and supplementary to an Act to provide for funding the outstanding debt of the City of Oakland, and prevent the creation of new debts by said City, passed April 20, 1855, and recommend that the bill be referred to the Senator from Alameda.

Also, Senate bill No. 81, an Act supplementary to an Act defining the time of commencing Civil Actions in certain cases, passed April 2d, 1855.

Also, Senate bill No. 55, an Act to authorize the Administrator of the Estate of Wm. Knight, deceased, to convey certain lands therein named, and recommend their indefinite postponement.

D. R. ASHLEY,  
Chairman.

Report accepted and bills placed on general file.

Mr. McGee, to whom was referred Assembly bill No. 33, an Act to define the



boundary lines of Tehama County, reported the same back, and recommended its passage without amendment.

Bill read third time and passed.

Mr Norman made the following report:

*Mr. President :*

The Calaveras Delegation, to whom was referred Senate bill No. 90, an Act to amend an Act entitled "An Act to fund the debt of the County of Calaveras, and provide for the payment thereof, approved May 3, 1852," have had the same under consideration, and ask leave to return it to the Senate with a recommendation that it pass without amendment.

W. B. NORMAN.

February 13, 1857.

Report accepted.

Rules suspended; bill considered engrossed; read a third time and passed.

Mr. Norman made the following report:

*Mr. President:*

The Calaveras Delegation, to whom was referred Assembly bill No. 85, entitled an Act to amend an Act to change the time of holding the County Court and Court of Sessions of the County of Calaveras, and to change the manner to summoning a Jury for the County Court of said County, approved April 27, 1855, have had the same under consideration, and recommend its passage.

W. B. NORMAN.

February 13, 1857.

Report accepted.

Bill considered; read a third time and passed.

The following Message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly, on the 11th instant, passed Assembly bill No. 52, an Act to establish the County Seat of El Dorado County.

Also passed Assembly bill No. 119, an Act to define the lines of Yolo County and to establish its boundaries.

Also Assembly bill No. 112, an Act to provide for the extinguishment of the debt of San Luis Obispo County.

W. CAMPBELL,

Clerk of Assembly.

February 13, 1857.

Assembly bill No. 52, an Act to establish the County Seat of El Dorado County, was read first and second time, and referred to El Dorado Delegation.

Assembly bill No. 119, an Act to define the lines of Yolo County, and to establish its boundaries, was read first and second time, and referred to Committee on Counties and County Boundaries.

Assembly bill No. 112, an Act to provide for the extinguishment of the debt of San Luis Obispo County, was read first and second time, and referred to Santa Barbara Delegation.

Mr. Mandeville introduced a bill for an Act amendatory of an Act to provide for the protection of Foreigners, and to define their liabilities and privileges, passed March 13, 1853, passed May 13, 1854.

Read first time, rule suspended; read a second time, rule further suspended; considered engrossed, and read a third time.

The question being on the final passage of the bill, the ayes and noes were demanded by Messrs. Merritt, Maudeville and Cosby, and taken with the following result:

#### AYES.

Messrs. Ashley, Bell, Burnett, Bynum, Carpenter, Chase, Coffroth, Crandall, De La Guerra, Dosh, Ferguson of Sacramento, Johnson of Sacramento, Johnson of El Dorado, McCallum, McGee, Melony, Mandeville, Merritt, Norman, Shaw, Soule, Sullivan, Taliaferro, Walkup and Wilson—25.

#### NOES.

Messrs. Cosby, Ferguson of Sierra, Fiske and Westmoreland—4.

So the bill passed.

Mr. Coffroth introduced a bill for an Act to grant to the Sheriff of Tuolumne County additional time to make his Annual Settlement for the collection of State and County Taxes for the year 1856.

Read a first and second time and referred to the Tuolumne Delegation.

Mr. Crandall made the following report:

*Mr. President:*

The Committee on Enrolled Bills have examined and found correctly enrolled an Act to amend the 45th section of an Act concerning officers.

D. CRANDALL,  
Chairman.

Mr. Johnson of Sacramento introduced a bill for an Act granting certain Swamp and Overflowed Lands to the City of Sacramento.

Read first and second time and referred to Committee on Public Lands.

Mr. Ashley introduced, from the Judiciary Committee, a bill for an Act to authorize the Executor or Administrator of the Estate of Josefa Soto de Stokes, deceased, to sell the real estate of said deceased at public or private sale.

Read first and second time and referred to Judiciary Committee.

GENERAL FILE.

Assembly bill No. 49, an Act amendatory of an Act fixing the time of holding the Court of Sessions, County Court and Probate Court in and for the County of Santa Clara, passed April 18th, 1856.

Read third time.

Mr. Bell offered the following amendment:

Section 2. This Act shall take effect on and after the first day of April next.

Adopted.

The question being on the final passage of the bill, was taken, and the bill passed.

Senate bill No. 86, an Act amendatory of and supplementary to an Act to provide for funding the outstanding debt of the City of Oakland, and to prevent the creation of new debts by said City, passed April 20th, 1855, was referred to the Senator from Alameda.

Senate bill No. 81, an Act supplementary to an Act defining the time of commencing Civil Actions in certain cases, passed April 2, 1855, was indefinitely postponed.

Senate bill No. 55, an Act to authorize the Administrators of the Estate of Wm. Knight, deceased, to convey certain lands therein named, was laid on the table.

The following Message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly have, to-day, passed Assembly bill No. 78, an Act making Appropriations to defray the Civil Expenses of Government from the first of February, 1857, to the 30th of June, 1857, inclusive.

W. CAMPBELL,

Clerk of Assembly.

Assembly bill No. 78, an Act making Appropriations to defray the Civil Expenses of Government from the first of February, 1857, to the 30th of June, 1857, inclusive, was taken up.

Read first time, rule suspended; read second time, and referred to the Committee on Public Expenditures.

Mr. Coffroth in the Chair.

The hour having arrived for the consideration of the special order of the day,

Senate bill No. 1, an Act recommending to the Electors to vote for or against a Convention to revise and change the Constitution of this State, was taken up.

Mr. Mandeville moved to make the bill the special order for the first Tuesday in March next at 12 M.

The ayes and noes were demanded by Messrs. Taliaferro, Westmoreland and Ferguson of Sacramento.

The President in the Chair.

After much debate, Mr. Mandeville, by leave, amended his motion so as to make the bill the special order of the day for Thursday, February the 26th, at 12 M.

The ayes and noes were demanded by Messrs. Taliaferro, Coffroth and Ferguson of Sacramento, and taken with the following result:

#### AYES.

Messrs Ashley, Bell, Bynum, Carpenter, Crandall, Dosh, Ferguson of Sierra, Fiske, Goodwin, Johnson of El Dorado, McCallum, McGee, Mandeville, Merritt, Norman, Shaw, Soule and Wilson—18.

#### NOES.

Messrs. Burnett, Chase, Coffroth, Cosby, De La Guerra, Ferguson of Sacramento, Mesick, Taliaferro and Walkup—9.

So the bill was made the special order of the day for Thursday, February 26th, 1857, at 12 M.

Mr. Dosh gave notice that, at an early day, he will introduce a bill to amend an Act to create a Board of Supervisors in the Counties of this State, and to define their duties and powers, approved March 20, 1855.



The following report was received from the Enrolling Committee:

*Mr. President :*

The Committee on Enrolled Bills have presented to his Excellency the Governor, an Act to amend the 45th section of an Act concerning officers.

D. CRANDALL,

Chairman.

The following Message was received from his Excellency the Governor:

EXECUTIVE DEPARTMENT, }  
Sacramento, February 13, 1857. }

*To the Senate of California :*

I have this day approved an Act to amend the 45th section of an Act concerning officers.

J. NEELY JOHNSON.

The following Message was received from his Excellency the Governor:

EXECUTIVE DEPARTMENT, }  
Sacramento, February 13, 1857. }

*To the Senate of California:*

I hereby nominate and appoint James L. English, Treasurer of the State of California, vice Henry Bates resigned, and respectfully ask the concurrence of your honorable body in such appointment.

J. NEELY JOHNSON.

On motion of Mr. Mandeville the Senate considered the Message.

The question being " Will the Senate consent to the appointment of James L. English as State Treasurer ?" was taken, and the appointment confirmed by the following vote:

AYES.

Messrs. Ashley, Bell, Burnett, Bynum, Carpenter, Chase, Coffroth, Crandall, Cosby, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Goodwin, Johnson of El Dorado, McCallum, McGee, Mandeville, Merritt, Mesick, Norman, Shaw, Soule, Taliaferro, Walkup, Westmoreland, and Wilson—27.

Mr. Ferguson of Sacramento presented the memorial of H. H. Maloon, praying relief, with accompanying vouchers.

Referred to Committee on Claims.

On motion of Mr. Taliaferro the Senate adjourned.

Approved February 14, 1857.

R. M. ANDERSON,  
President Senate.

Attest:

G. S. EVANS, Secretary Senate.

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## IN SENATE.

SATURDAY, February 14, 1857.

Senate met pursuant to adjournment.

The President in the Chair.

Roll called.

Journal of yesterday read and approved.

Messrs. Melony and Sullivan were granted leave of absence for two days, and Mr. Waite for an indefinite period.

Mr. Coffroth presented the petition of citizens of San Mateo County, which was read and referred to the Special Committee appointed on the 13th inst. with reference to elections held in that County.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly have adopted the following resolution:

*Resolved*, That Messrs. O'Neill and Quimby be and they are hereby constituted a Committee to go to the Senate, and at the bar thereof, in the name of this Assembly and the people of this State, to impeach G. W. Whitman, Controller of State, of misdemeanors in office, and to acquaint the Senate that the Assembly will in due time exhibit particular articles of impeachment against

him, and make good the same; and that said Committee demand that the Senate take order for the appearance of the said G. W. Whitman to answer said impeachment.

I certify the above to be a true copy of a resolution adopted by the Assembly on the 13th February, 1857.

W. CAMPBELL,

Clerk Assembly.

Messrs. O'Neill and Quimby, Committee of the Assembly, appeared at the bar of the Senate and made the following announcement:

*Mr. President:*

In accordance with a resolution of the Assembly passed yesterday, we now acquaint the Senate that the Assembly, in the name of themselves and the people of this State, have impeached G. W. Whitman, Controller of the State of California, of misdemeanor in office, and that the Assembly will in due time exhibit particular articles of impeachment against him and make good the same.

We demand, therefore, in the name of the Assembly, that the Senate take order for the appearance of the said G. W. Whitman to answer to said impeachment.

JAMES O'NEILL,

JOHN A. QUIMBY.

Mr. Ashley offered the following resolution:

*Whereas*, The Assembly of this State, through its Committee at the bar of the Senate, has impeached G. W. Whitman, Controller of State, of misdemeanor in office, and demanded that the Senate take order for the appearance of said party to answer the impeachment; therefore, be it

*Resolved*, That the Senate will take such order and will issue process against said G. W. Whitman State Controller, upon presentation of the articles of impeachment.

Adopted.

Mr. Coffroth made the following report:

*Mr. President:*

The Special Committee to whom was referred an Act to grant to the Sheriff of Tuolumne County additional time to make his annual settlement for the collection of State and County taxes for the year 1856, report the same back and recommend its passage without amendment.

JAS. W. COFFROTH,

JAS. W. MANDEVILLE.

Report accepted and bill considered.

Mr. Coffroth moved that the bill be considered engrossed and read a third time.

Mr. Ashley moved to amend by inserting after the figures 1856, in the 5th line section 1st, "And he shall continue the collection of State and County taxes up to the expiration of that time," which was adopted.

The question recurring on Mr. Coffroth's motion to consider the bill engrossed and read a third time, the ayes and nays were demanded by Messrs. Norman, Coffroth and Taliaferro, and taken with the following result.

#### AYES.

Messrs. Ashley, Bell, Burnett, Bynum, Chase, Coffroth, Cosby, Dosh, Ferguson of Sierra, Fiske, Goodwin, Johnson of El Dorado, Mandeville, Mesick, Shaw, Soule, Taliaferro, Westmoreland and Wilson—19.

#### NOES.

Messrs. Carpenter, Crandall, McCallum, Merritt, Norman and Walkup—6.

So the bill was considered engrossed, read a third time and passed.

The Special Committee to whom was referred Assembly bill No. 65, an Act to fund the Debt of the County of Sutter and provide for the payment thereof, have considered the same, and recommend its passage with the following amendments:

Section first, 2d line, strike out "17th day of May" and insert "1st day of March;" and on 6th line, strike out "sum of one hundred" and insert "any sum not less than one hundred nor more than one thousand." Section five, 3d line, strike out the word "three" and insert the word "one." Section ten, 23d line, strike out the word "newspaper" and insert the word "manner."

J. O. GOODWIN,  
Sutter Delegation.

Report accepted and bill placed on general file.

The Special Committee to whom was referred the petition of the Supervisors of Shasta County, report a bill for the consideration of the Senate, and recommend its passage:

S. H. DOSH,  
Shasta Delegation.

Report accepted and bill considered.

An Act to amend an act entitled "an Act concerning the Board of Supervisors of Placer County," approved February 4th, 1857, was read first and second time, and ordered engrossed for a third reading.

On motion of Mr. Dosh, the vote ordering the engrossment of the bill was reconsidered, rule suspended, bill considered engrossed, read a third time and passed.



The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly on yesterday concurred in Senate resolution relative to the cancellation of Controller's Warrants and matters connected herewith, and have appointed Messrs Wyman, Wood and Inman on the part of the House.

W. CAMPBELL,  
Clerk of Assembly.

February 14, 1857.

Also, the following:

*Mr. President:*

I am directed to inform the Senate that the Assembly have this day passed Assembly bill No. 141, an Act explanatory of an act entitled "an Act to reduce and establish the salaries of officers and the pay of members of the Legislature," approved April 21st, 1856.

W. CAMPBELL,  
Clerk of Assembly.

February 13th, 1857.

Assembly bill No. 141, an Act explanatory of an act entitled "an Act to reduce and establish the salaries of officers and pay of members of the Legislature," approved April 21st, 1856, was read first and second time, and referred to the Committee on Claims.

#### GENERAL FILE.

Assembly bill No. 65, an Act to fund the Debt of the County of Sutter and provide for the payment thereof, with amendments of Committee, was considered as in Committee of the Whole: amendments of the Committee adopted, reported back, amendments concurred in, bill read third time and passed,

Mr. Merritt, by leave, presented the petition of the Sisters of Mercy, praying relief for care and expenses upon the indigent sick of San Francisco County for the years 1855, '56 and '57, which was referred to the Committee on Hospitals.

On motion of Mr. Ashley, all bills, resolutions and other matter laid on the table, was placed on general file.

On motion of Mr. Ashley, the Senate adjourned.

Approved February 16th, 1857.

R. M. ANDERSON,  
President Senate.

Attest:

GEO. S. EVANS, Secretary Senate.

## IN SENATE.

MONDAY, February 16, 1857.

Senate met pursuant to adjournment.  
 President in the Chair.  
 Roll called.  
 Journals of Saturday read and approved.

## REPORTS OF COMMITTEES.

Mr. Burnett, of the Committee on Claims, made the following report:

*Mr. President :*

The Committee on Claims, to whom was referred Assembly Bill No. 144, entitled "An Act explanatory of an act entitled an Act to reduce and establish the salaries of officers and pay of members of the Legislature," approved April 21st, 1850, have had the same under consideration, and report the same back and recommend its passage with the following amendments:

Strike out in Section one, from the words "apply to" in the fourth line to "provided" in the sixth line, and insert "the salary of any person who is or may be appointed to fill any vacancy in the office of Controller of State or Treasurer of State, previous to the next general election; but the appointees to fill such vacancy, shall receive the same salary as the person in whose office the vacancy occurred, up to the next general election, and until their successors are elected and qualified."

W. C. BURNETT,

Member Committee.

Report accepted and Bill placed on general file.

The following report was received from the Committee on Agriculture:

*Mr. President :*

The Committee on Agriculture, to whom was referred Assembly Bill No. 15, an Act to guard against the destruction of property by means of sparks from the chimneys of steamboats navigating certain waters of this State, report the same back and recommend its passage.

P. DE LA GUERRA,

Chairman.

Report accepted and Bill placed on general file.

Mr. Fiske made the following report:

*Mr. President :*

The undersigned, of the El Dorado Delegation, to whom was referred Assembly Bill No. 52, an Act to establish the county seat of El Dorado county, have had the same under consideration, and would respectfully report the same back and recommend its passage without amendment.

HENRY M. FISKE,  
S. M. JOHNSON.

Senate Chamber, February 16th, 1857.

Report accepted and Bill placed on general file.

Mr. Chase made the following report:

*Mr. President :*

The Delegation from Nevada, to which was referred Senate Bill No. 85, entitled "An Act to authorize the Board of Supervisors of Nevada county to levy a special tax for county purposes," have had the same under consideration, and report it back without amendment and recommend its passage.

S. H. CHASE.  
Of the Committee.

Report accepted and Bill placed on general file.

Mr. Bynum made the following report:

*Mr. President:*

The Special Committee, to whom was referred Assembly Bill No. 111, entitled "An Act to change the time of holding the Courts in Yolo county," respectfully report the same back, and recommend its passage without amendment.

S. BYNUM,  
Chairman.

Report accepted and Bill placed on general file.

The following message was received from His Excellency, the Governor :

STATE OF CALIFORNIA, EXECUTIVE DEPARTMENT, }  
Sacramento, Feb. 14th, 1857. }

*To the Senate of California :*

I have, this day, approved an Act to fix the compensation of the District Attorney for the county of Siskiyou, and to repeal, in part, the first Section of an act entitled "An Act to fix the compensation of District Attorneys for the several counties of this State," passed May 4th, 1855.

Also, an Act to provide for taking the sense of the people of Tehama county upon the question of removal of the county seat thereof from the town of Tehama to the town of Red Bluffs.

J. NEELY JOHNSON.

Mr. Merritt gave notice that on to-morrow, or at an early day, he will introduce a Bill for an Act to provide for the construction of canals, and for draining and reclaiming certain swamp and overflowed lands in Tulare Valley.

Mr. Norman made the following report from the Committee on Mines and Mining Interests:

*Mr. President :*

The Committee to whom was referred Senate Bill 32, entitled "A Bill to provide for the working of mines and minerals found in lands lying, or being within the grants heretofore made by the Crown of Spain or the supreme government of Mexico, to private persons prior to the treaty of Guadalupe Hidalgo," have had the same under consideration and ask leave to make the following report. The Bill is not confined in its provisions to the objects specified in its title, as the following extract will show: "By the United States, the State of California was recognized and acknowledged as a *separate* and independent sovereign government, *possessing*, according to the Constitution of the United States, by reason of that independent sovereignty, *the right of eminent domain in all the territory within its borders.*" The Committee do not desire to enter into a discussion of this subject in full, but choose rather to give a few facts, and the conclusions therefrom, which induce them to report adversely to the passage of the Bill. It has been the uniform policy of Mexico to encourage her mining interest, and in making grants of land to individuals or companies, she always reserved to herself, for the benefit of her miners, all of the minerals in the land so granted. The Mexican government had a complete and perfect title, and full sovereignty over all the minerals contained in the "grants," and by virtue of the treaty of Guadalupe Hidalgo she conveyed the same unimpaired, to the government of the United States of America. All lands in California which are not covered by Mexican or Spanish grants, or which have not been given, by special enactment of the United States Congress, to California, belong of right, to the government of the United States; because she acquired the same by reason of said treaty; and by no act of hers within our knowledge, has she relinquished them. We hold that the United States own the lands and the minerals; that she owns both, in the lands known as public lands; that she owns the minerals in the lands which have been "granted" to individuals. The American government has pursued a "masterly inactivity" in regard to her ownership,—and in the meantime, the mineral lands have been settled upon by hardy, intelligent, and enterprising miners, and California has permitted them to make their own rules and regulations concerning the mines,—carefully and wisely abstaining from any assertion of ownership to the mines; she has, from time to time, passed such laws as would best promote the interests of the miners and add to the general good. It may be well enough, in the absence of Legislation by the United States, for the State to prescribe the manner by which ores may be extracted from the Mexican or Spanish grants,—or that the State should pass some law defining the rights of miners on such "grants;" but, until the miners show, by petition or otherwise, that they desire something of this kind, it were



better to let it alone,—for, as a general thing, the miners desire only *to be let alone*. The doctrines contained in this Bill, are fraught with great danger to the mining interests of this State. It does not require a great deal of faith to believe that if California had exclusive sovereignty over the mineral lands, that it would not be a great while until those lands would be wrested from the miners and placed in the hands of monopolists. The State, thus far, has not been able to conduct her own affairs with sufficient credit to herself to justify her in seeking to exercise supreme power over a subject of such vast importance to the whole Union, and which is beyond her control. We recommend the indefinite postponement of the Bill.

Very respectfully,

W. B. NORMAN,  
Chairman.

J. W. MANDEVILLE,  
JOS. WALKUP,  
G. J. CARPENTER,  
W. I. FERGUSON.

Mr. Coffroth in the Chair.

Mr. Dosh made the following Minority Report from the Committee on Mines and Mining Interests:

*Mr. President:*

The undersigned member of the Committee of "Mines and Mining Interests," to which was referred the Bill No. 32, Senate file, "to provide for the working of mines and minerals found in lands lying or being within the grants heretofore made by the Crown of Spain, or the Supreme Court of Mexico, to private persons prior to the treaty of Guadalupe Hidalgo," dissenting from the opinions held by a majority of the Committee relative thereto, begs leave respectfully to submit the following report:

This bill involves questions and interests of a magnitude which demand for it most careful and dispassionate consideration. It assumes for the State, by virtue of her sovereignty, the ownership of the minerals in all the lands covered by the Spanish and Mexican grants referred to in the title thereof, as well, also, as the absolute and sole right to control and dispose of the same.

When it is remembered that these grants comprehend a greater extent of territory than either of several of the smaller States of this Union, and that within their limits are embraced vast tracts of mineral lands, larger in area than some of the most noted principalities of Europe, it is indeed a matter of profound astonishment, that up to the present time no Legislative action has been had upon this subject, asserting the right of the State to all minerals in the lands within the said grants. The fact, however, that during the previous years of our existence as a sovereign State, no effort was made by the Spanish or Mexican grant holders to assert the right of controlling or disposing of the minerals within their lands, is the probable cause of the apparent indifference exhibited by previous Legislatures with regard to interests amounting to many millions of

dollars in value. Recently, however, some of these grant owners, acting upon the hypothesis that the mineral lands within their grants were conveyed to them in absolute fee, and that the right to the minerals therefore vested in them, have intimated a determination to exercise absolute control over them. Indeed they have in one instance, according to the newspapers, already taken the initiatory steps toward asserting and maintaining the right of ownership in these minerals. Now it is well known that much of the mineral lands referred to are at this time, and have been for years, occupied and worked by miners according to the rules and regulations obtaining in mines upon the public lands. Hence, if the ownership of these minerals is lodged in the State by virtue of her sovereignty, together with the right to dig and carry away the same, "and with all such incidents thereto as are necessary to be used for getting them," it is her duty promptly to assert and maintain these rights—to restrain the grant holder from exercising such as do not belong to him, to the great injury and annoyance of the miner.

It therefore becomes our first duty to enquire where rests the title to the minerals in such of the lands within the territory acquired by the treaty of Guadalupe Hidalgo, as are mentioned in the title of this bill.

After a careful examination of the Spanish and Mexican laws under which the grants or concessions of land were made, as well as that portion of the common law which has reference to mines and minerals, we are thoroughly persuaded that the ownership of said minerals, in no instance, belongs to the grant owner, but always remained with the sovereignty. Section first of the bill assumes this position and declares that, according to the laws under which California existed while constituting a part of the possessions of Spain and Mexico, "it was the fixed rule of law that no mineral lands were intended to be or ever were conveyed to any private person in absolute fee," but that those governments always reserved to themselves all ownership in the minerals, as well as such incidental rights as were necessary to extracting the same from the land.

To maintain this position we must of necessity refer to Mexican and Spanish authority. Luckily we have been fortunate enough to obtain translations of all the Spanish and Mexican laws bearing upon the question, that were promulgated and in force between the years 1387, before America was discovered, and 1848, when the treaty of Guadalupe Hidalgo was made. They may all be found in the first volume of "Rockwell's Spanish and Mexican Law," relating to mines and mining.

Those mining laws in force under the crown of Spain previous to the year 1584 are known in Spanish law books as the "Old Ordinances." Law I. of these ordinances, promulgated by Don Alphonso XI, reads as follows :

"All minerals of gold, silver, lead, and every other metal whatsoever, in our realms belong to us ; therefore no one shall presume to work them without our special license and command."

Law II., by John I., moderated this rule, and permitted any person to dig or work mines in his own land without a special license, and in the land of another with the permission of the proprietor. As under this law, however, "the owners of private property might prevent all other persons from searching therein for mines," Philip II., in 1559, promulgated Law III., of the Old Ordinances, a portion of which reads as follows :

"First, we reclaim, resume and incorporate in ourselves, and in our crown and patrimony, all mines of gold, silver, and quicksilver in these our Kingdoms, in

whatever parts or places they may be or be found, whether the estates of the crown or of the nobility or clergy, or belonging to the public, or the townships, or vacant lots, or in the estates, and portions, and lands of individuals," &c.

In the year 1584, Philip II., promulgated Law IV., which is called the New Code and which repeals all former laws "except as to the vesting in the crown the mines of gold, silver and quicksilver, of which grants had theretofore been made to private persons by districts, bishoprics and provinces." This new code comprises eighty-four ordinances, and together with the commentaries of Gamboa, of which it is the text, even at this time in Mexican courts is considered of the highest authority, when not conflicting with the "Mining Ordinances of New Spain," made by the King of Spain in 1783.

We have seen then, that under the Old and New Codes, the minerals in the lands were always made subject to the use, benefit and absolute control of the crown. This was the law until the year 1783, when the "Mining Ordinances of New Spain" were published and became the law in all the Spanish colonies; these ordinances are now the law of Mexico, except only with such modifications as were made necessary by the change from monarchical to republican government. Section first of the fifth chapter of the code of 1783, reads as follows:

"The mines are the property of my Royal Crown, as well by their nature and origin as by their re-union, declared by the fourth law of the thirteenth title of the sixth book of the new compilation."

Section second declares:

"Without separating them from my Royal patrimony, I grant them to my subjects in property and possession, in such manner that they may \* \* \* dispose of all their property in them, upon the terms on which they themselves possess it," &c.

Section third is in those words:

"Be it understood that this grant is made upon two conditions. First, that they (my subjects) shall pay to my Royal Treasury the proportion of metal reserved thereto; and secondly, that they shall carry on their operations in the mines subject to the provisions of these ordinances, on failure of which, at any time, the mines of persons so making default shall be considered as forfeited, and may be granted to any person who shall denounce them accordingly."

Thus it will be seen that the right to the minerals in all lands, public and private, was never separated from the sovereignty under either Spanish or Mexican law. This is indisputable. It is equally uncontrovertible that the holders of Spanish and Mexican grants within the territory of California have acquired no additional rights over their possessions, by virtue of the treaty of Guadalupe Hidalgo, but now possess identically the same they enjoyed under the sovereignty of the Supreme Government or Mexico. Hence it follows inevitably that the right to the minerals in said grants vests in the sovereignty which now supersedes that of Mexico. This conclusion is irresistible, and brings us directly to the question: What sovereignty now replaces—stands in the stead of—that under which California existed while a territory of Mexico? We shall endeavor to prove that it is the sovereignty of the State of California.



The Department of California for many years previous to, and at the time of, its acquisition by the Government of the United States, had a regularly organized government, with legislative, executive and judicial departments, each possessing well defined powers, in many respects, in point of dignity, corresponding with, in others far surpassing those possessed by the like departments of this government. For example, the government of California under the Mexican laws, could, on certain conditions, make and confirm grants of the public domain—a power which, under our Constitution, Congress alone is competent to exercise. She was possessed of a system of laws which, so far as they did not conflict with the Constitution, treaties and laws of the United States, continued in force after the consummation of the treaty of 1848, and until the 20th day of December, 1849; when, by the resignation of General Riley, Governor of California, by virtue of his position as Commandant of the military forces on the Pacific, the government under our present State Constitution went into operation, and continued in operation, without the approval of Congress, until the 9th day of September, 1850, when the Act, admitting California into the Union as a sovereign State, became a law. Thus it will be seen that during the period intervening from July 4th, 1848, when the treaty of Guadalupe Hidalgo was proclaimed by the President of the United States, and the 9th day of September, 1850, the Congress of the United States treated California as a mere military acquisition—refusing to replace with a civil government, that which had been organized under the rights of conquest,—or, to quote the language of the annual message of President Polk, “established by military authority during the war.” During all this time, Congress ignored the very existence of California as a territory, so far as furnishing her with a government was concerned. The fact is indisputable that Congress never did recognize her as a territory,—the laws of the United States will be searched in vain to prove the contrary opinion. *The first recognition of California by Congress, was as an independent sovereignty.* On the 9th day of September, 1850, by the joint act of the people of California on the one part, and the constituted authorities of the United States on the other, after a protracted and angry struggle, she was admitted into the Union as a sovereign State. She was admitted, according to the Constitution of the United States, upon the same footing as the original States—as a separate and independent sovereign government, possessing by reason of that independent sovereignty, the right of eminent domain. Thus the rights which pertained to the sovereignty of Mexico, and which had been transferred to the government of the United States by the treaty of Guadalupe Hidalgo, by the Act admitting California into the Union, passed to the sovereignty of this State. If this train of argument be correct, and we think it will not be successfully disputed, we have demonstrated the fact that all the rights in the grants referred to in the title of this bill, which, attached to the sovereignty of Mexico, have passed to, and are now vested in, the sovereignty of the State of California. With respect to the ruling of common law on this point, it is merely necessary to repeat, in order to complete the argument, what has been said elsewhere, that “the several States of this Union, in virtue of their respective sovereignties, are entitled to the jura regalia which pertained to the king at common law.”

Having thus established the right of California to the minerals in these grants of land, according to both Mexican and common law, we proceed to consider what other prerogatives accompanied the reserved right of ownership in the minerals in all grants of lands made under Spanish and Mexican authority. A portion of section third of the bill reads as follows:

“The locator, or claimant, of such mines, shall be entitled to have and to hold one acre of land, which is not mineral, if the same can be obtained, at or near



said mines, for the purpose of residence." \* \* \* \* \*  
 and "shall be entitled to use water and fuel, which may be upon the adjoining lands, to aid him or them in mining, and for the necessary and ordinary domestic purposes of life, and also to use wood to build a dwelling house." Section fourth merely secures to the "locator, or claimant," the right of way for all necessary purposes.

The question here arises: Has this Government the right to make such disposition of the land, &c, in these grants, as the portions of the section just quoted propose? And this leads to the inquiries: What are the rights in these lands, and to the wood and water thereon, which the Spanish and Mexican Governments reserved to themselves for the use of the miner in extracting the ores? Did not those Governments always reserve for the miner, on lands granted to individuals, the right of way; the right to the use of a sufficient amount of land for a residence; and of sufficient wood for the erection of buildings and machinery, and for fuel; and of sufficient water for mining, and other purposes? In short, are not these privileges, viz: the use of sufficient land for residence, of wood and water for building, mining, and other purposes, and the right of way, among those franchises which, under the Spanish and Mexican laws, are necessarily incident to the right to work the mines?

The common law is very clear on this head. According to Plowden, who is good authority in our courts, it holds that the ownership of the minerals is necessarily "accompanied with full liberty to dig and carry away the ores, and with all other such incidents thereto, as are necessary to be used for getting them." The Spanish and Mexican laws are still more explicit upon all the points necessary here to be considered, and hence we propose to let them appear as nearly as may be just as we find them in the books.

And first, by reference to the "New Ordinances," chapter first of Ordinance 16th, we find it declared that all persons, whatsoever, shall be privileged to search for minerals in all lands, "throughout the whole of the kingdoms and domains of the Crown of Castile," in all fields, waste places, and pasture grounds, "whether belonging to ourselves, (the Crown,) to any town, or to individuals," provided "that if any damages be committed," the miner shall be liable for the same, when properly assessed by such "surveyors" or arbitrators as the law required. Gamboa, in his commentaries upon this Ordinance, note 6th, says: "The damage may arise not merely from the digging and excavating the soil, but from the setting up and building houses and smelting furnaces in pasture grounds required for cattle, or from any other inconvenient circumstance affecting the owner of the soil, and arising from the mines."

In section 3d, of chapter 13th, of "Mining Ordinances of New Spain," it is provided that, in the immediate neighborhood of mining districts, there may be a sufficient number of grazing places and watering places "set apart for the use of the animals required for mining purposes," with the provision, however, that the owner of the said land shall be paid for the same, and that no greater amount of land shall be set apart for the above mentioned purpose, than that adjudged necessary by a surveyor appointed on each side, and of a third, in case of disagreement, "unless with the free consent of the owner of such lands."

Section 12th, of the same chapter, declares that, "The mountains and woods in the neighborhood of mines are to be used for the purpose of providing them (the miners) with timber for their machinery, and with wood and charcoal for the reduction of the ores, and the same is to be understood with regard to those which are private property, provided a fair price be paid to the owners"

Section 9th, chapter 19th, of the same code, provides that "In the allotment of ground for the purposes of building houses" \* \* \* "the miners are

to be preferred to other persons," and grants them the liberty of cutting wood and making charcoal, and of pasturing their cattle in the grazing places and watering places; with the condition, however, that unless such lands, &c., are public property, the owner of the soil shall be entitled, for the exercise of said privileges, to such amount as those having authority under the law may adjudge proper.

Lest it may be supposed that the laws and parts of laws quoted from Mexican and Spanish mining ordinances may have reference alone to quartz mines or veins, we quote from chapter 6th of "Mining Ordinances of New Spain," section 18th, as follows: "Beds of ore (placers) and all other depositories (criaderos) of gold and silver on being discovered, shall be registered and denounced in the manner as mines or veins, the same being understood of all species of metal."

Thus, to sum up the argument, it appears that Spain and the Supreme Government of Mexico, in making grants of lands to individuals, always reserved to their respective sovereignties the ownership of the minerals, the right to work the mines, together with all such incidents thereto as were necessary to be used in digging the ores: That all of the said rights, by virtue of the treaty of Guadalupe Hidalgo, passed to the United States Government, and thence, by virtue of the Act of Congress admitting California into the Union as a sovereign State, to the sovereignty of California, where they now rest. Therefore, California alone, has authority to authorize them to be worked, and to pass laws for their regulation.

Hence, with such amendments to Sections 3d and 5th of the Bill as will secure to the owner of the soil all his rights therein, and a few others of less importance, to other sections, we recommend its passage. We believe, thus amended and enacted into a law, it will do justice to all parties concerned—to the grant owner, the State, and the miners now holding claims within these grants. Unless this or some similar law is speedily passed, there is great reason to fear that the miners working claims on some of the Mexican grants will be unjustly disturbed and harassed by the owners thereof or their agents. As long ago as 1783, King Phillip II. declared that it was "a notorious and well established fact that the working miners were a very poor class of people, *and very useful to the State*;" that the precious produce of the mines was "the chief source of the prosperity of his subjects, the support of his treasury, and the spring and moving power of the commerce of all his dominions, and to a great degree of that of the whole world." These remarks of the old Spanish King apply with great force at the present time. Seventy-four years have not changed for the better, the condition of the gold digger; he is still "poor, and very useful to the State;" the product of his labor is still the chief source of the prosperity of the people, still the spring and moving power of the commerce of this country, and to a great degree of that of the whole world. Hence he should be protected in all his rights. This Bill proposes to accomplish that desideratum—to remove all uncertainty relative to the rights of all parties concerned, and thus save a vast amount of personal contention, litigation, and perhaps bloodshed.

Since writing the foregoing, the undersigned has heard read the report made on the Bill by a majority of the Committee. From this report, it would appear that the great objection to the Bill, in the opinion of the authors thereof, is, that it claims for California, by reason of her independent sovereignty, "the right of *eminent domain* in all territory within her borders." This right, the majority solemnly declare they do not claim for California; and chiefly because it is claimed in the first Section of the Bill, recommend that the same be indefi-

nately postponed. This position is of such an extraordinary character that the undersigned is constrained to the belief that the gentlemen making the majority report entirely misapprehend the meaning of the term *eminent domain*. In reference thereto, I beg leave to quote from Bouvier's Law Dic., vol. 1. p. 466:

*Eminent Domain*—The right which the people or government retain over the estates of individuals, to reserve the same for public use.

Also from Burrill's Law Dic., page 416, 1st vol.:

*Eminent Domain*—The inherent sovereign power of a State, which gives to the Legislature the control of private property for public uses.—2 Kent's Com., 339, and note.

The ultimate right of the sovereign power to appropriate not only the public property, but the private property of all the citizens within the territorial sovereignty, to public services.—Story J., 2 Peters' R. 420, 641. Webster Arg. S. C.

Thus, if the position of the majority report be correct, and this right of eminent domain does not belong to California, this Legislature has not the power to authorize the use of private lands for railroad purposes or any other public uses. Such a position is simply absurd; inasmuch as it denies that this is a sovereign State.

All of which is respectfully submitted.

S. H. DOSH.

[NOTE.—The amendments which Mr. Dosh had drawn up, and intended to propose in Senate for adoption, would have altered Sections second and third of the Bill so as to provide: First, that the size of mining claims should be regulated by the mining rules of the locality, as adopted by the miners; and second, that the miner, before he got license to work the mine which he denounced on a Spanish grant, and before he secured the right to use a sufficient quantity of land near said mine for residence, and wood for building and mining purposes, etc., should first pay to such land-owner such amount of damages as arbitrators selected—one by the miner denouncing, and one by the land-owner, and in case they could not agree, a third, by the nearest Justice of the Peace—should adjudge fair and reasonable.]

On motion of Mr. Ferguson of Sacramento, 240 copies of each the majority and minority reports of the Committee on Mines and Mining Interests were ordered printed.

On motion of Mr. Mandeville, the bill was made the special order for Wednesday, February 25th, 12 o'clock M.

Mr. Chase, by leave, introduced a bill for an Act to prohibit the location of School Land Warrants on lands in the mineral region of this State, and to regulate mining in the mineral region, which was read first and second time, and referred to the Committee on Mines and Mining Interests.

#### GENERAL FILE.

Senate resolution relating to the election of Physician to Insane Asylum, was on motion of Mr. Mandeville, laid on the table.



President in the chair.

Senate bill No. 65, an Act for the relief of Robt. G. Crozier, was taken up, and the President decided that the Senate having refused to order the bill engrossed on the 2d of February, the bill was to be considered as defeated.

Senate bill No. 35, an Act to remunerate J. W. Denver for his services as Commissioner of the California War Debt, was, on motion of Mr. Ferguson of Sacramento, laid on the table.

Senate bill No. 12, an Act to change the name of Edward C. Higginbottom to Edward Compton Howard, was laid upon the table.

Senate bill No. 76, an Act to abolish the office of Director of the State Prison, was, on motion of Mr. Taliaferro, laid upon the table.

Assembly bill No. 122, an Act to extend the time of collecting taxes in the County of Marin, was laid on the table.

Senate bill No. 55, an Act to authorize the administrator of the estate of William Knight to convey certain lands therein named, was indefinitely postponed.

Assembly bill No. 141, an Act explanatory of an act entitled "an Act to reduce and establish the salaries of Officers and pay of Members of the Legislature," approved April 21st, 1856, was taken up, amendment reported by the Committee on Claims this morning adopted, bill read a third time and passed.

Assembly bill No. 15, an Act to guard against the destruction of property by means of sparks from the chimneys of steamboats navigating certain waters of this State, was, on motion of Mr. Soule, laid on the table.

Assembly bill No. 52, an Act to establish the county seat of El Dorado County was taken up.

Mr. McCallum moved to make the bill the special order of the day for Thursday, the 26th inst.

Pending which considerable debate was had with reference to the motion, and by leave, upon the general question. For words spoken in debate Senator Ferguson of Sacramento, was by the President placed in arrest. After further debate, Mr. Mandeville moved the discharge of Mr. Ferguson, which was carried.

The question recurring on the motion of Mr. McCallum, the ayes and noes were demanded by Messrs. Fiske, Johnson of El Dorado, and Ferguson of Sacramento, and taken with the following result:

AYES.

Messrs. Ashley, Bell, Carpenter, Chase, Crandall, De La Guerra, Ferguson



of Sierra, Goodwin, McCallum, Mandeville, Mesick, Norman, Soule, Walkup, Westmoreland and Wilson—16.

#### NOES.

Messrs. Burnett, Bynum, Coffroth, Cosby, Dosh, Ferguson of Sacramento, Fiske, Johnson of Sacramento, Johnson of El Dorado, McGee, Merritt, Shaw and Taliaferro—13.

So the bill was made the special order of the day for Thursday, the 26th inst, at 12 o'clock M.

Senate bill No 85, an Act to authorize the Board of Supervisors of Nevada County to levy a special tax for County purposes, was ordered engrossed for a third reading.

Assembly bill No. 111, an Act to change the time of holding the Courts of Yolo County, was taken up, read a third time and passed.

Mr. Crandall, by leave, introduced a bill for an Act to amend an Act to create a Board of Supervisors in the Counties of this State, and to define their duties and powers, approved March 20th, 1855, was read first and second time, and referred to Amador Delegation.

Mr. Carpenter offered the following resolution, by leave:

*Resolved*, That the Special Committee to whom was referred the Act to legalize the present indebtedness of the State, be and they are hereby directed to report the same back on or before Thursday next.

Mr. Fiske moved the indefinite postponement of the resolution, upon which the ayes and noes were demanded by Messrs. McCallum, Carpenter and Ashley.

Mr. Ashley moved to strike out "Thursday" and insert "Saturday."

Accepted.

The question being on the indefinite postponement of the resolution, was taken and lost by the following vote:

#### AYES.

Messrs. Burnett, Bynum, Coffroth, Dosh, Ferguson of Sacramento, Fiske, Johnson of Sacramento, Johnson of El Dorado, Taliaferro and Westmoreland—10.

#### NOES.

Messrs. Ashley, Bell, Carpenter, Chase, Crandall, Goodwin, McCallum, McGee, Mesick, Norman, Shaw, Soule, Walkup and Wilson—14.

The question recurring on the adoption of the resolution, on which the ayes and noes were demanded by Messrs. Cofforth, Fiske, and Taliferro, and the resolution adopted by the following vote:

AYES.

Messrs. Ashley, Bell, Carpenter, Chase, Crandall, Goodwin, McCallum, McGee, Mesick, Norman, Shaw, Soule, Walkup and Wilson—14.

NOES.

Messrs. Burnett, Bynum, Coffroth, Dosh, Ferguson of Sacramento, Fiske, Johnson of Sacramento, Johnson of El Dorado, Mandeville, Taliaferro and Westmoreland—11.

Mr. Merritt, by leave, introduced a bill for an Act to provide for the construction of canals and for draining and reclaiming certain swamp and overflowed lands in Tulare Valley, which was read first and second time, and referred to the Committee on Public Lands.

On motion of Mr. Westmoreland, Senate bill No. 12 was taken from the table, considered engrossed, and read a third time.

The question being upon the final passage of the bill, after some time spent in debate, Mr. Taliaferro moved the previous question—the question being “shall the main question be now put?” was taken and carried. The main question being the final passage of the bill.

Mr. Merritt moved that the enacting clause be amended by the Clerk, which was carried by the unanimous consent of the Senate, and the bill as amended passed.

On motion of Mr. McGee, the Senate adjourned.

Approved February 17th, 1857.

R. M. ANDERSON.

President of Senate.

Attest:

GEO. S. EVANS, Secretary of Senate.

## IN SENATE.

TUESDAY, February 17, 1857.

Senate met pursuant to adjournment.

President in the Chair.

Roll called.

Absent—Messrs. Bynum, Ferguson of Sacramento and Melony.

Journals of yesterday read and approved.

Mr. Crandall presented the petition of sundry citizens of the State, praying the passage of a Sunday law, which was referred to the Committee on Public Morals.

Mr. Ashley presented the claim of H. P. Lopdell for relief, which was referred to the Committee on Claims.

Mr. Shaw presented the petition of Leander Ransom, praying relief, which was referred to the Committee on Claims.

Mr. McCallum presented a memorial from citizens of El Dorado County, praying the repeal of so much of the third paragraph of section 394 of an Act to regulate proceedings in Civil Cases in the Courts of Justice in this State, as relates to negroes; also, to repeal so much of section 14 of an Act concerning Crimes and Punishments, passed April 16, 1850, as relates to negroes and mulattoes, which was referred to the Judiciary Committee.

## REPORTS OF COMMITTEES.

The Committee on Claims made the following report:

*Mr. President :*

The Committee on Claims, to whom was referred an Act authorizing the Controller of State to issue duplicate Interest Coupons of the State of California to Mebries, Dusenbery & Co., of San Francisco, have examined the same and recommend its passage with the following amendments:

Amend the title of the bill so as to read as follows: "An Act to authorize the Treasurer of State to issue certain Interest Coupons." Amend the body of the bill by striking out the word "Controller" whenever it occurs and insert in place thereof the word "Treasurer."

WM. J. SHAW,  
Chairman.

Report accepted and bill placed on general file.

The following report was made by the Committee on Engrossed Bills:

*Mr. President :*

The Committee on Engrossed Bills have examined Senate bill No. 85, entitled an Act to authorize the Board of Supervisors of the County of Nevada to levy a special tax for County purposes, and find the same correctly engrossed.

GOODWIN,  
Of the Committee.

February 17, 1857.

Mr. Burnett, of the Committee on Claims, made the following report :

*Mr. President:*

The Committee on Claims, to whom was referred the petition and claim of A. M. Winn for compensation for military services as Brigadier General of the 1st Brigade 2d Division California Militia, claimed to have been rendered during the first and second El Dorado expeditions in the years 1850 and 1851, have made a careful investigation into the merits of the claim, and find from all the testimony, that Gen. Winn was in service in the field in the year 1851 for the period of ninety days, but there is no testimony before the Committee that established the fact that he was in actual service in the year 1850.

At the time that Gen. Winn was in service, there was no provision of law for the pay of military officers serving this State in a higher grade than that of a Major. Your Committee find that Gen. Winn presented his claim to the Controller of State at the proper time, but payment was refused solely upon the ground that the pay of Brigadier General was not provided by law.

In the opinion of your Committee, the true rule in all such cases is, that the *higher* includes the *lower* rank, and that although the pay of Gen. Winn's *rank* was not provided for by law, still this would not preclude him from drawing the pay of a Major, which was provided for, inasmuch as he had in service under his orders a full Major's command.

The pay of a Major at the time this service was rendered was ten dollars per day. A Major was entitled to pay for two horses at the rate of one dollar per day each.

A great number of vouchers and papers in support of this claim were laid before the Senate at its last session, and referred to the Committee on Claims. Those papers have never been returned to Gen. Winn, and cannot be found, but your Committee are of opinion that they would not go to establish any actual service in addition to that proven before them by verbal testimony. We find that Gen. Winn is entitled to ten dollars per day for ninety days, and pay at the rate of one dollar each for two horses ninety days—in all, one thousand and eighty dollars; and, therefore, present the accompanying "Act to provide for compensating Brigadier General A. M. Winn in full for military services," and recommend its passage.

W. C. BURNETT,  
Of the Committee.

Report accepted.



The following report was received from the Amador Delegation:

*Mr. President:*

The Amador Delegation, to whom was referred Senate bill No. 99, an Act to amend an act entitled "an Act to create a Board of Supervisors in the Counties of this State, and to define their duties and powers," approved March 20, 1855, respectfully report the same back without amendments, and recommend its passage.

D. CRANDALL.

Report accepted and bill placed on general file.

Mr. McGee, to whom was referred Senate bill No. 79, an Act to amend an act entitled "an Act to organize the County of Plumas," passed March 18, 1854, reported the same back without amendments, and recommended its passage.

Report accepted and bill placed on general file.

The following report was received from Paul K. Hubbs, late Superintendent of Public Instruction:

*To the Honorable the Senate of the State of California:*

In accordance with section 2 of an Act making appropriations for the Civil expenses of the Government of the State, approved March 15, 1856, I have the honor herewith to submit a statement of the manner in which the contingent appropriation for the Department of Public Instruction has been expended for the year commencing February 1, 1856, and ending January 31, 1857, so far as those expenses occurred to January 1, 1857, vouchers on file in Controller's office.

PAUL K. HUBBS,

Late Superintendent Public Instructions.

BENICIA, February 15, 1857.

EXHIBIT OF SUPERINTENDENT OF PUBLIC INSTRUCTION.

*Manner of expending Contingent Appropriation, February 1, 1856, to January 1, 1857.*

1856—Feb'y 20.—To Paul K. Hubbs, expenses visiting schools and school officers in San Joaquin, Tuolumne and Stanislaus Counties.....	\$ 85 00
" March 24.—To M. Gibbons, for services sweeping, fire making, folding documents, &c., from Feb. 1 to March 1, 1856, per voucher sent Controller.....	45 00
" " " Anthony Hubbs, services in writing and copying 21 days at \$9, per voucher sent Controller.....	189 00
" April 6.—To Post Master at Benicia, postage from Feb. 1 to April 1, per voucher.....	47 40
" " 30.—To Paul K. Hubbs, expenses in visiting schools in Solano County.....	17 25

1856—April 18.—To Paul K. Hubbs, paid Hatch & Co. for office furniture, per voucher.....	34 37
“ May 17.—To Paul K. Hubbs, paid A. Harris, postage, folding documents, and care of office from March 10th to May 17th, per voucher.....	90 00
“ “ 22.—To Paul K. Hubbs, paid Moore, Allen & Co. for candles, per voucher.....	22 05
“ June 9.—To D. S. Lord & Co., binding reports from other States, and pamphlets, per voucher.....	56 00
“ July 11.—To Post Master at Benicia, postage from April 1 to July 1, per voucher.....	55 70
“ “ “ To Paul K. Hubbs, paid M. Gibbons, care of folding documents, per voucher.....	80 00
“ “ “ To Anthony Hubbs, writing in office at different times, from April 1 to July 1—in all 40 days, at \$9, per voucher.....	360 00
“ Sept. 29.—To Paul K. Hubbs, cash to McCam, Teacher's Convention, \$12, and M. O'Connell, care of office, postage, &c. to date, per voucher—\$120.....	132 00
“ “ “ To Allan & Blain, for candles, per voucher.....	38 75
“ Oct. 4.—To Post Master at Benicia, postage from July 1 to Oct. 1, per voucher.....	53 37
“ “ 29.—To J. W. Jones, stationery and expressage, Feb. 1 to date, per voucher.....	158 35
“ Nov. 24.—To Paul K. Hubbs, paid M. O'Connell, care of office, postage, folding documents, &c. two months, per voucher.....	70 00
“ “ “ To Paul K. Hubbs, expenses annual examination Stockton schools.....	48 00
“ “ “ To W. P. Tustin, three cords wood, and sawing, hauling and splitting, per voucher.....	60 00
“ Oct. 16.—To Anthony Hubbs, writing in office from Oct. 15 to Dec. 16, at different times, 35 days, at \$9, per voucher.....	315 00
“ “ 20.—To Post Master at Benicia, postage since Oct. 1, paid in part, per voucher.....	42 76
Amount of appropriation.....	\$ 2,000 00

*Deficiency.—Certified December 30, 1856, viz:*

Due Paul K. Hubbs for rent of office for year 1856—12 months, at \$75.....	\$ 900 00
Remaining unpaid for year 1855—12 months, at \$75.....	900 00
Unpaid for year 1854, \$900 less \$738 90.....	161 10
Due Wells, Fargo & Co. express charges, bill not yet rendered, about..	25 00

\$1,986 10

Certified to be correct under oath of office.

PAUL K. HUBBS.

Superintendent Public Instruction.

BENICIA, December 31, 1856.

Referred to the Committee on Public Expenditures.

## BILLS ON FIRST READING.

Senate bill No. 101, an Act to provide for compensating Brigadier General A. M. Winn in full for military services, was read first and second time, and ordered engrossed for a third reading.

Mr. Mandeville in the chair.

## GENERAL FILE.

Senate bill No. 48, an Act to authorize the Controller of State to issue duplicate Interest Coupons of the State of California to Mebries, Dusenbery & Co., of San Francisco, with amendments of the Committee on Claims, was considered as in Committee of the Whole: amendments adopted, reported back to the Senate, amendments adopted in Senate, bill considered engrossed, read third time and passed.

By unanimous consent of the Senate, the title of the bill was amended as recommended by the Committee and approved.

Senate bill No. 85, an Act to authorize the Board of Supervisors of Nevada County to levy a special tax for County purposes, was read third time and passed.

Senate bill No. 99, an Act to amend an act entitled "an Act to create a Board of Supervisors in the Counties of this State and define their duties and powers, on motion of Mr. Merritt, was recommitted to the Amador and Mariposa Delegations, with special instructions to strike out "two hundred and fifty dollars" and insert "three hundred and fifty dollars."

Senate bill No. 79, an Act to amend an act entitled "an Act to organize the County of Plumas," passed March 18, 1854, was ordered engrossed.

## SPECIAL ORDER OF THE DAY.

Senate bill No. 54, an Act to grant the right to construct a bridge across the Sacramento river between the city of Sacramento and the town of Washington, was on motion of Mr. Westmoreland, laid on the table.

Mr. Dosh introduced a bill for an Act to authorize the Board of Supervisors in and for the County of Shasta to levy a tax for the erection of Public Buildings in said County, which was read first and second time, and placed on general file.

Mr. Bell, to whom was referred Senate bill No. 86, an Act amendatory of and supplementary to an Act to provide for funding the outstanding debt of the city of Oakland, and to prevent the creation of new debts by said city, passed April 20th, 1855, by leave, reported the same back without amendments, and recommended its passage.

Bill considered in Committee of the Whole, and reported the same back without amendments.

In Senate. Ordered engrossed. ~~V~~ote on engrossing reconsidered. Bill considered engrossed, read third time and passed.

Mr. Merritt, by leave, made the following report on Senate bill No. 99, referred this morning to the Amador and Mariposa Delegations, with special instructions to amend:

In 3d line, after the word "Supervisors" insert "except in the County of San Francisco."

In 35th line of the section, strike out the word "Mariposa," and in 40th line, after the word "dollars" insert as follows: "And provided further, that in the County of Mariposa the per diem shall not exceed six dollars, and in the aggregate three hundred and fifty dollars.

In 45th line, strike out the word "eight" and insert "fifteen."

Report accepted and bill with amendments considered in Committee of the Whole.

After some time spent in consideration of the same, the Committee report:

In Senate.

First, second and third amendments concurred in.

The question being on a concurrence in the fourth amendment, to strike out "eight" and insert "fifteen," the ayes and noes were demanded by Messrs. Ashley, Westmoreland and Cosby, and taken with the following result:

#### AYES.

Messrs. Chase, Crandall, Dosh, Fiske, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McGee, Merritt, Mesick, Soule, Walkup and Westmoreland—13.

#### NOES.

Messrs. Ashley, Burnett, Carpenter, Coffroth, Cosby, Goodwin, McCallum, Norman, Shaw, Sullivan—10.

So the fourth amendment was adopted and the bill ordered engrossed.

On motion of Mr. Burnett, Senate bill No. 101 was taken up.

Mr. Coffroth moved the indefinite postponement of the bill, upon which the ayes and noes were demanded by Messrs. Norman, Wilson and Westmoreland, and taken with the following result:

#### AYES.

Messrs. Coffroth, Crandall, De La Guerra, Melony, Norman, Sullivan, Walkup and Wilson—8.



Messrs. Ashley, Bell, Burnett, Chase, Cosby, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, McGee, Merritt, Shaw, Soule, Taliaferro and Westmoreland—18.

So the Senate refused to postpone.

The President in the chair.

Mr. Burnett moved that the rules be suspended, the bill be considered engrossed, and read a third time, which was lost.

Mr. Burnett then moved that the bill be engrossed, which was adopted.

On motion of Mr. Soule, Assembly bill No. 15, an Act to guard against the destruction of property by means of sparks from the chimneys of steamboats navigating certain waters of this State, was taken from the table and considered in Committee of the Whole.

Mr. Merritt in the chair.

After some time spent in considering the bill and amendments, the Committee reported the same back to the Senate.

Senate.

Amendments of Committee adopted, and bill read a third time.

The question being on the final passage of the bill, Mr. Walkup moved a reconsideration of the vote by which the amendments were adopted, which was agreed to.

Mr. Walkup then moved that the bill be recommitted to the Senator from Yuba with special instructions to amend, which was adopted.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly have this day adopted a resolution relative to the correction of a certain enrolled bill, and ask the concurrence of the Senate.

J. W. SCOBEEY,  
Assistant Clerk.

Resolution concurred in.

Mr. McCallum offered the following resolutions, and moved their adoption:

## JOINT RESOLUTIONS CONCERNING THE PUBLIC DEBT.

*Whereas*, Doubts have arisen, by reason of a recent dictum of the Supreme Court, as to the constitutionality of the indebtedness of the State which has been incurred since the State debt exceeded \$300,000, except such portion of the same as may have been incurred "in case of war to repel invasion or suppress insurrection," and the indebtedness incurred in consequence of the first session of the Legislature; and whereas, such doubt and uncertainty is calculated to seriously affect the financial credit of the State in the commercial world; therefore, be it

*Resolved*, by the Senate, (the Assembly concurring,) That the people of the State of California are constitutionally represented in Senate and Assembly, that the people is a sovereign, and the people as represented in Senate and Assembly, can decide whether the public debt shall be paid; that the honor and credit, and best interests of the State, require that her debts shall be honorably liquidated.

*Resolved*, As the opinion and will of the people represented as aforesaid, that the Constitution has created the indebtedness which now exists for the ordinary expenses of the government; that the abuse of the power conferred by the Constitution has not destroyed that power, but that those who may have abused the same are responsible to the people.

*Resolved*, That the eighth article of the Constitution is directory and advisory, and as a moral obligation was properly intended as a wise precaution of the framers of that instrument against improvident Legislation.

*Resolved*, That the bonds and other evidence of State indebtedness issued by the Legislative authority for indebtedness incurred for the ordinary expenses of the government, have been recognized by repeated action of the Legislature at every session, and incidentally by frequent decisions of the Courts ever since the adoption of the Constitution, and, therefore, that the honor of the State, in addition to legal and moral obligation, is pledged for the faithful application of all securities given and pledged for the payment of all such indebtedness.

Mr. Shaw offered the following amendment as a substitute for the third resolution:

*Resolved*, That the 8th article of our Constitution applies only "to some single object or work," as is therein specially mentioned, and not the current expenses of the Government, and therefore does not apply to nor invalidate the present indebtedness of this State.

Mr. Dosh moved to print the resolutions, together with the amendment offered by Mr. Shaw, which was carried.

On motion of Mr. Coffroth the resolutions were referred to the Judiciary Committee.

Mr. Goodwin, to whom was referred Assembly bill No. 15, with special instructions, made the following report:

In the 5th line of section 1st, after the word "wire" add "or iron." In the 7th line of section 1st, strike out the word "all," and at the conclusion of

said 1st section add "of sufficient size to endanger property on the shores of said rivers from fire by such sparks, such bonnet or spark-catchers to be used on all boats plying on the rivers aforesaid, during each year from the first day of June to the first day of November, and to be made and used by the direction and supervision of the United States Inspector of Steamboats for the District of San Francisco."

Report accepted, amendments adopted, bill read a third time and passed.

Mr. Cosby moved to amend the title so as to read: "an Act to encourage keel-boating on the Sacramento river and tributaries," which was lost, and the title of the bill as passed was read and approved.

Mr. Westmoreland offered the following resolution:

*Resolved*, That the Secretary of State be requested to transmit to the Senate an account of the moneys paid into his office (since the commencement of the term of the same) to the credit of the "Library Fund."

Adopted.

Mr. Norman moved to take from the table Senate bill No. 76, an Act to abolish the office of Director of the State Prison."

Carried.

On motion of Mr. Ashley, it was made the special order of the day for Tuesday, February 24th inst., at 12 o'clock M.

On motion of Mr. Cosby, the Senate adjourned.

Approved February 18th, 1857.

R. M. ANDERSON,  
President Senate.

Attest :

GEO. S. EVANS, Secretary Senate.

## IN SENATE.

WEDNESDAY, February 18th, 1857.

Senate met pursuant to adjournment.  
 President in the chair.  
 Roll called.

Journals of yesterday read and approved.

Mr. Johnson of Sacramento presented the petition of sundry citizens of Sacramento county, praying the repeal of a portion of section 394 of an Act to regulate proceedings in Criminal Cases, &c, and a portion of section 14 of an Act concerning Crimes and Punishments, as relates to negroes and mulattoes, which was referred to Judiciary Committee.

Mr. McGee presented the petition of sundry citizens of Butte county, and Mr. Dosh the petition of sundry citizens of Shasta county, upon the same subject, which were referred to the Judiciary Committee.

## REPORTS OF COMMITTEES.

The following Report was received from the Committee on Public Morals :

*Mr. President:*

The Committee on Public Morals to whom was referred the petitions from various parts of the State praying for the enactment of a Sunday law, and to whom was referred the bill establishing the first day of the week as a day of rest from all secular employments, report the same back and recommend its passage.

SAM. B. BELL,

Chairman.

Feb. 18th, 1857.

Report accepted and bill placed on general file.

The following Report was received from the Judiciary Committee:

*Mr. President:*

The Judiciary Committee have had under consideration Senate bill No. 95, "an Act to authorize the Executor or Administrator of the Estate of Josefa Soto de Stokes, deceased, to sell the real estate of said deceased at public or private sale," beg leave to report the same back to the Senate and recommend its passage.



Also, Senate bill No. 71, "an Act concerning Official Bonds," beg leave to offer a substitute for said bill, and recommend the passage of the substitute.

D. R. ASHLEY,  
Chairman.

Report accepted and bill placed on general file.

The following Report was received from the Committee on Corporations:

*Mr. President:*

The Committee on Corporations to whom was referred Senate bill No. 87, for "an Act to authorize the construction of certain Wharves upon the Straits of Carquines and certain Turnpikes from the same," and recommend its indefinite postponement.

The Committee are of the opinion that it conflicts with the 31st section of the 4th article of the Constitution, which denies the right to the Legislature to create corporations, except under general laws.

JAMES W. COFFROTH,  
From Committee.

Report accepted and bill placed on general file.

Mr. Coffroth, Chairman of the Committee on Public Expenditures, made the following Report:

*Mr. President:*

The Committee on Public Expenditures to whom was referred Assembly bill No. 78, "an Act making appropriations to defray the Civil Expenses of Government from the first of February, 1857, to the 30th June, 1857, inclusive, report the same back and recommend that it be negatived.

They report herewith a substitute for the same, and respectfully ask its adoption.

JAMES W. COFFROTH,  
Chairman.

Report accepted and bill considered.

Read first and second time, and on motion of Mr. Ashley, was adopted as the substitute to Assembly bill No. 78. The rule requiring bills to be read on three several days, was suspended, and bill considered as in Committee of the Whole.

After some time spent in considering the same, the Committee rose, reported the same with an amendment to the Senate.

In Senate.

The question being upon the adoption of the amendment of Committee of the Whole, upon which the ayes and noes were demanded by Messrs. Ashley, Carpenter and Westmoreland, and taken with the following result :

AYES.

Messrs. Burnett, Bynum, Chase, Dosh, McGee, Merritt, Taliaferro, Westmoreland—8.

NOES.

Messrs. Ashley, Bell, Carpenter, Crandall, Cosby, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, McCallum, Melony, Mandeville, Mesick, Norman, Shaw, Soule, Sullivan, Walkup, Wilson—18.

So the amendment was lost.

On motion of Mr. Mandeville, the bill was considered engrossed, read third time and passed.

During the pendency of the appropriation bill in Committee of the Whole, the door-keeper announced a committee from the Assembly. The committee appeared within the bar of the Senate, and through Mr. McKune, their Chairman, announced that the Assembly had instructed them to inform the Senate that the Assembly had preferred the following articles of impeachment against Henry Bates, Treasurer of State, which articles of impeachment and resolution of Assembly appointing such committee, were put in possession of the Senate by the Chairman of the Committee.

Thereupon, the President of the Senate announced to the committee that the Senate would, in accordance with a former resolution take order, and in due time inform the Assembly thereof.

RESOLUTION OF ASSEMBLY.

*Resolved*, That a committee of five, consisting of Messrs. McKune, Brent, Shepard, Catlin and Moore are hereby appointed to prepare articles of impeachment against Henry Bates, Treasurer of State, and that it shall be the duty of said committee to manage the conduct of said impeachment before the Senate, and they are hereby declared to have power to administer oaths and send for persons and papers.

February 10th, 1857.

On motion of Mr. McKune, Mr. Swezy was added to the above committee.

February 11th, 1857.

I certify the above to be true copies of resolutions adopted by the Assembly.

W. CAMPBELL,  
Clerk of Assembly.

ARTICLES OF IMPEACHMENT PREFERRED BY THE ASSEMBLY AGAINST HENRY BATES, TREASURER OF STATE.

*ARTICLES exhibited by the Assembly of the State of California, in the name of themselves and of all the people of said State, against Henry Bates, Treasurer of State, in maintenance and support of their Impeachment against him for Misdemeanor in Office.*

ARTICLE 1. That the said Henry Bates, Treasurer of the State of California, on or about the 12th day of April, A. D. 1856, in said State, having occasion to employ and trust persons other than himself in and about the business of transmitting to New York the amount of eighty-eight thousand five hundred and twenty dollars, the interest money then to become due on the 1st day of July, 1856, and payable in said city, upon Bonds of said State issued under and in pursuance of the provisions of the various Funding Acts passed by the Legislature of said State without the order or warrant of the Controller of State did deliver to Joseph C. Palmer, George W. Wright, Charles W. Cook and Edward Jones, then doing business in the firm name of Palmer, Cook and Company, the sum of eighty-eight thousand five hundred and twenty dollars, moneys of said State, and the said Henry Bates, Treasurer as aforesaid, unmindful of the solemn duties of his station, and that he held the same by the Constitution of this State, liable to impeachment and removal from office, by color of his said office with intention wrongfully, unjustly and unlawfully to pay out and trust the moneys of said State with the said Palmer, Cook & Co, did not take for his own security, or for the security of said State, any security by bond, mortgage, or otherwise approved by the Governor of said State. And the said Palmer, Cook & Co. having received such moneys without giving such bond, did not transmit said moneys to New York, and did not pay the said interest so falling due in that city, but did retain and keep the entire of said sum of moneys, and did apply the same to their own use, whereby the same became, were and are wholly lost to said State, and the people thereof.

ART. 2. The said Henry Bates, while acting as such State Treasurer, did purchase, sell and receive, and connived at, and assisted other persons to purchase, sell and receive to his and their own use and benefit, and to the use and benefit of other persons, State Warrants, Controller's Warrants, State Scrip, and other evidence of indebtedness of said State, and with the coin and bullion of the State.

ART. 3. The said Henry Bates, Treasurer of the State of California, at divers times in the year A. D. 1856, by color of his office wilfully and knowingly, without the authority of law, and against the express provisions of the statute in such case made and provided, and contriving and intending to cheat and defraud the Treasury of said State, and combining with one W. S. Hughson, one E. A. Rowe, and others for that purpose, did receive from the County Treasurers of the counties of San Francisco, Amador, Yolo, El Dorado, Sierra, Sacramento and Yuba, large amounts of money and bullion, property of said State, and did then and there appropriate to his own use and behalf large amounts of said money and bullion, and did then and there by color of his office as aforesaid and contrary to law, substitute in the place and stead of said money and bullion, Controller's Warrants, and thereupon redeemed such Controller's Warrants contrary to law.

SPECIFICATION 1. On or about the 24th day of July, 1856, he received of and from W. L. McKim, Treasurer of the county of Amador, in cash and bullion,

\$10,467 79, and then and there substituted Controller's Warrants in place and stead of such cash and bullion.

SPECIFICATION 2. On or about the 1st day of July, 1856, he received of and from R. M. Woods, Treasurer of the County of San Francisco, in cash and bullion \$12,477 22; and on or about the 30th day of October in the same year, he received of and from the Treasurer of said county of San Francisco, in cash and bullion, \$15,113 52, and then and at each of those times, appropriated such sums to his own use, and substituted in their place and stead Controller's Warrants in the Treasury of this State.

SPECIFICATION 3. On or about the 31st day of July, 1856, he received of and from ———, Treasurer of Yolo county, in cash and bullion, \$300, and then and there appropriated the same to his own use, and substituted in the Treasury of this State in place and stead of such cash and bullion Controller's Warrants.

SPECIFICATION 4. On or about the 9th day of August, 1856, the said Henry Bates, Treasurer as aforesaid, received of and from B. F. Fetter, Treasurer of the county of Sierra, \$2,010, in cash and bullion, the property of said State, and then and there appropriated the same to his own use, and then and there substituted in the Treasury of this State in the place and stead of such cash and bullion, Controller's Warrants.

SPECIFICATION 5. On or about the 18th day of November, 1856, he received of and from David Maddux, Treasurer of the county of Sacramento, \$17,005 20, in cash and bullion; and on or about the 6th day of December in the same year, he received from the same officer, \$10,634 64, and then and there appropriated the same to his own use, and in place and stead of such cash and bullion substituted Controller's Warrants in the State Treasury.

SPECIFICATION 6. On or about the 24th day of December, 1856, he received of and from — Williams, Treasurer of the county of Yuba, \$10,852 50, moneys of this State, in cash and bullion, and then and there appropriated the same to his own use, and substituted therefor in the State Treasury, Controller's Warrants.

ART. 4. The said Henry Bates, while acting as Treasurer of State, at divers times in the year 1856, by color of his office, wilfully and knowingly, without the authority of law, and against the express provisions of the statute in such cases made and provided, and contriving and intending to cheat and defraud the Treasury of said State, and combining with one W. S. Hughson, one E. A. Rowe and others, for that purpose, did permit, allow and assist the said E. A. Rowe to purchase to his own use and benefit, and to the use and benefit of the said Rowe and Hughson, State Warrants, and other evidence of indebtedness against the said State, and for his own benefit, and for the benefit of the said Rowe and Hughson, at divers times, and at the dates mentioned in article three, herewith presented, did permit, allow and assist the said Rowe and Hughson to substitute such State Warrants, and other evidence of indebtedness, for cash, in his office of State Treasurer.

ART. 5. And whereas, the Legislature of this State, on the 22d day of April, 1855, did enact that all public moneys which may be at any time on hand in the Treasury, should, after the passage of such Act, be kept in the fire-proof vault in



the building now occupied by the Capitol of this State, and that none of the public moneys should, after said 23d day of April, be deposited with any individual, co-partnership, or corporation. And whereas, the said Bates, as Treasurer, was by law required not to pay out or in any manner disburse any funds of said State, except upon and in accordance with a Controller's Warrant, or order, yet the said Henry Bates, while acting as Treasurer of State, on or about the 3d day of January, 1857, at the date aforesaid, by color of his office, wilfully and knowingly, without the authority of law and against the express provisions of the statute in such case made and provided, and without the authority of a Controller's Warrant, or order, or any other authority therefor, did pay out, disburse, and deliver to the said E. A. Rowe \$124,000, moneys of said State, and the said Rowe there and then received the same and appropriated it to his own use, and said sum of money became, was, and is, wholly lost to said State, and the people thereof.

ART. 6. That the said Henry Bates, in and during the year 1856, did receive from the various County Treasurers of the different Counties in this State, large sums of money, and did not place the same in the vaults of the Treasury, but by color of his office, knowingly and wilfully disregarding his duties as Treasurer, did deposit the same with the banking firm of Wells, Fargo & Co., and did permit and assist the said E. A. Rowe to use and loan out large sums of money of said State to divers parties, to this Assembly unknown, and did permit and assist the said Rowe to lay out and expend large sums of such moneys, in buying and selling gold dust, Controller's Warrants, and other evidence of indebtedness of said State for the use, benefit and profit of the said Bates and Rowe, and in disregard of his duties as Treasurer.

ART. 7. The said Henry Bates, at the State of California, on or about the 15th day of January, 1857, by color of his office, wilfully and knowingly, without the authority of law, and against the express letter of the statute in such case made and provided, and contriving and intending to cheat and defraud the Treasury of said State, and the people thereof, and for that purpose combining with said E. A. Rowe, did draw his official draft and order, as such Treasurer, for the sum of fifteen thousand dollars on the banking firm of Wells, Fargo & Co., and did deliver the same to the said E. A. Rowe, with intent to permit, allow, and assist the said Rowe to draw the money on such draft and use the same for his own use and benefit, and for the benefit of said Bates; and the said Rowe did then and there draw said sum of money by means of said draft, and did use the same to and for his own private use and purpose, with the advice, consent, and approbation of said Bates.

ART. 8. That the said Henry Bates, Treasurer as aforesaid, by color of his office, having permitted large amounts of moneys of said State to be used and disbursed contrary to law, and for his own private purposes, and for the use and benefit of himself and others—thus creating a large deficiency of money in the Treasury; and believing and fearing that the money in the Treasury would be ascertained and counted by a Committee of the Assembly of this State, for the purpose of concealing such lack of money in the Treasury, wilfully and knowingly, on or about the 13th day of January, 1857, did promise the agent of said banking firm of Wells, Fargo & Co., at the city of Sacramento, to draw his official draft in favor of such firm for \$20,000, and then and there, upon such promise, did obtain of the said Wells, Fargo & Co. the sum of \$20,000, and did take the same to the vaults of the Treasury, with intent to have the same used, and to exhibit the same as moneys of the State at divers times to a Committee of said Assembly, authorized

and required to count and ascertain the amount of moneys in the Treasury. That said moneys were transferred from the banking house of said Wells, Fargo & Co. to the vaults of the Treasury, in coin of the United States, \$12,500, and in California ten dollar pieces, which latter coins were of value in the money market twenty-five cents less than ten dollars on each piece, and that said twenty thousand dollars were returned by said Treasurer to the banking firm of Wells, Fargo & Co. on or about the 17th day of January, 1857, in coin of the United States.

ART. 9. That on or about the month of July or August, A. D. 1856, the said Henry Bates, as State Treasurer, received, as it was his duty as such officer, from one D. R. Ashley, Controller's Warrants—

No. 3,530,	issued to John Keating, D. R. Ashley, attorney, for...	\$101	25
No. 3,846,	" " " " " " " "	144	00
No. 3,189,	" J. M. Elroy, " " " "	358	75
No. 3,277,	" " " " " " " "	112	00
No. 2,401,	" " " " " " " "	112	00
No. 2,143,	" " " " " " " "	102	00
No. 1,858,	" " " " " " " "	714	00
No. 1,272,	" " " " " " " "	112	00
No. 1,120,	" " " " " " " "	112	00
No. 981,	" " " " " " " "	256	00
No. 863,	" " " " " " " "	96	00

In the aggregate amounting to.....\$2,220 00 for the purpose of funding the same under an act entitled "an Act to fund the indebtedness of the State now existing in the form of Controller's Warrants drawn on the General Fund, or that may be outstanding on the 1st day of January, 1857, or Warrants issued for indebtedness accruing prior to the 1st day of January, 1857," (approved April 19th, 1856,) the said Warrants being left with the said Henry Bates, as such State Treasurer, for that purpose, and having so, as aforesaid, received into his custody as such officer, for such purpose, the said Warrants, and it thereupon being the duty of the said Henry Bates, as such Treasurer, to give to the said D. R. Ashley in payment, exchange and redemption of said Warrants, bonds issued under said Funding Act for the amount thereof; and thereupon to indorse on the back of each of said Warrants, so redeemed, the date on which he redeemed the same, and the name of the person from whom he received each of said Warrants, and the number of the bond issued in exchange therefor, and to keep a record of the same, giving the number of the Warrants, the date, and the amount thereof, with the number of the bond issued thereon, and not to liquidate or pay any of the aforesaid Warrants or indebtedness of State but in the manner before stated, being the mode and manner provided for the payment of the same by the said Funding Act; yet the said Henry Bates, as such Treasurer of State, wholly disregarding his duty as such officer, and the plain provisions of said Act, and colluding and conniving with others, his confederates, did, as such Treasurer, wilfully and corruptly, to his own benefit, advantage, and to the benefit and advantage of other persons with him colluding, substituted in lieu of said Warrants other Warrants and evidences of State indebtedness, to wit: Warrants

No. 267, drawn September 4th, 1856, to J. M. Estell, E. A. Rowe, attorney, for.....	\$300 00
No. 105, drawn January 31st, 1856, J. S. Ewing, Wells, Fargo & Co., attorneys, for salary as Secretary to Supreme Court, for.....	150 00
No. 173, drawn August 16th, 1856, to James W. Allen, W. S. Hughson, attorney, for.....	500 00

No. 195, drawn August 30th, 1856, to the Trustees of the Insane Asylum, E. G. Vaughn, attorney, for.....	500 00
No. 197, of the same date, and to the same parties, for.....	500 00
No. 2,731, drawn May 31st, 1856, to E. A. Rowe, for salary as Clerk of Treasurer, for.....	270 00

amounting to the sum of.....\$2,220 00  
and caused the same to be funded; and bonds thereon to be issued to said D. R. Ashley, under the date of September 1st, 1856, in the sum of \$2,220; and wickedly and corruptly refused and neglected to make the indorsements so as aforesaid required of him by the provisions of said Funding Act upon each and every of the Warrants so presented by the said D. R. Ashley for funding, and did wickedly and corruptly refuse and neglect to make the said record thereof required by said Funding Act, and in lieu thereof did wickedly and corruptly make such indorsement upon and record concerning the said Warrants so substituted in lieu of the Warrants so presented by the said D. R. Ashley for funding, and that the said Henry Bates, as such Treasurer, after having so received the said Warrants so presented by said D. R. Ashley, and having so as aforesaid neglected and refused to fund and indorse the same and make such record thereof did wilfully and corruptly, and colluding with other persons, his confederates, for his and their own advantage and profit, sometime in the month of July, August or September, in the year A. D. 1856, substitute and cause to be substituted, the Warrants so presented by the D. R. Ashley for funding, for and in lieu of the money, coin and bullion belonging to the said State, then in the office of the Treasurer of said State, and under the care and custody of said Henry Bates, as such Treasurer, and entered and filed the same of record in his said office of State Treasurer, as redeemed by being received from the County Treasurer of San Francisco County upon his settlement as such County Treasurer with said Henry Bates, as such State Treasurer, at a settlement made the 1st day of July, A. D. 1856, whereby he, the said Henry Bates, as such State Treasurer, did wickedly and corruptly, to his own advantage and profit, and to the advantage and profit of the other persons, so colluding with him, cause the said Warrants so presented by the said D. R. Ashley for funding, to be paid, redeemed and liquidated out of the coin and bullion belonging to said State, in the said State Treasurer's office, and in manner otherwise than as provided by law, and in direct violation of provisions of such Funding Act.

ART. 10. And the said Henry Bates, unmindful of the solemn duties of his station, did at various times, between the first day of May, 1856, and the twenty second day of January, 1857, permit E. A. Rowe and other persons to use moneys belonging to the State of California for his and their own private use, contrary to the statute in such case made and provided; also that the said Treasurer did at various times between the aforementioned dates, knowingly permit moneys belonging to the State to be deposited at the Banking House of Wells, Fargo and Co., and other places, contrary to the statute in such case made and provided. Also, that said Treasurer, at various times, between the aforementioned dates knowingly, wilfully and corruptly, with the design of defrauding the people of this State of the uses of the moneys in the Treasury, did deposit and permit to be deposited the same to the credit of E. A. Rowe, at the Banking House of Wells, Fargo & Co., contrary to the statute in such case, made and provided, whereby the said E. A. Rowe was enabled to use and did use said moneys for his private use, and the same thereby became lost to the use of the State.

ART. 11. And the said Henry Bates, unmindful of the solemn duties of his



station, did at some time prior to and about the 13th day of January, 1857, permit the sum of about \$25,000 to be taken from the Treasury, and upon that day the deficiency created thereby was concealed from the knowledge of a committee of the House of Assembly, by substituting moneys in lieu thereof, which did not belong to the State, but which were counted then and there, and by the said Treasurer represented as moneys belonging to the State, whereby the Legislature and the people were deceived and misinformed as to the true condition of the Treasury at that time.

ART. 12. That the said Henry Bates, Treasurer of State, on or about the 3d day of January, 1857, falsely pretending that it was then expedient and necessary to remit to the city of New York a large sum of money, to wit: the sum of \$124,000, in order to provide for the payment of the semi-annual interest upon the civil funded debt of the State, and contriving and intending to cheat and defraud the people, did pay over to E. A. Rowe, President of the Pacific Express, the aforesaid sum of \$124,000 out of the moneys in the Treasury, and did knowingly, wilfully and corruptly pay the same over as aforesaid, without first taking the bonds or security required by law, and without obtaining the approval of the Governor thereto, as by law he was bound to do; and the funds created and set aside by law for the payment of said interest being then insufficient to make said sum of \$124,000, he the said Treasurer did unlawfully, corruptly and wilfully, with the design of obstructing the operation of certain laws made for the well-being of the State, and for the economical disbursement of the public moneys take out of the General Fund of the Treasury, which was set aside by law to pay the current expenses of the Government, a large sum of money, to wit: the sum of about \$60,000, whereby the State was deprived of the use of the last named sum, and the same, together with the remainder of the said sum of \$124,000, was placed in the possession of said E. A. Rowe, and was by him used for his own private benefit.

ART. 13. That the said Henry Bates, unmindful of the duties of his office, did wilfully and knowingly neglect to obey the injunctions of an Act entitled an Act supplementary to an Act to fund the debt of the State, passed May 4th, 1852, in this, to wit: that while he was in office as such Treasurer, there existed a large surplus of moneys, to wit: a sum amounting to more than \$10,000, in the Interest and Sinking Funds created by law for the redemption of the bonds issued in pursuance of the Funding Act of April 29th, 1851, over and above the amount necessary for the payment of the interest on said bonds, and that the said Bates, Treasurer, as aforesaid, did knowingly and wilfully neglect to apply, according to law, the said surplus to the redemption of said bonds, by reason whereof the said surplus was accumulated to a large sum, to wit: the sum of about 60,000, and remains in the Treasury, and the said bonds, or a portion of them, remained unredeemed.

ART. 14. That the said Henry Bates, Treasurer of State, prior to the 3d day of January, 1857, having permitted large sums of money at various times to be withdrawn from the Treasury, as hereinbefore charged, contrary to law, by one E. A. Rowe, with the intent and design on the part of said Treasurer, that said funds might be used to his own benefit and the benefit of the said E. A. Rowe, did fraudulently, and with the intent to deceive the people of the State, and to cover up and conceal the deficiencies then actually existing in the Treasury, by reason of the aforesaid abstraction of moneys, did then, to wit: on the 3d day of January aforesaid, pretend to pay to the said E. A. Rowe, as President of



the Pacific Express, the said sum of \$124,000, and contract with him to pay certain interest moneys to become due on the part of the State, when in truth and in fact no such payment was made, and the Assembly, by protestation, saving to themselves the liberty of exhibiting at any time hereafter any further articles, or other accusation, or impeachment against the said Henry Bates, and also of replying to his answer, which he shall make unto the articles herein preferred against him, and of offering proof to the same, and every part thereof, and to all and every other article, accusation or impeachment, which shall be exhibited by them, as the case shall require, do demand the said Henry Bates may be put to answer the misdemeanors in office herein charged against him, and that such proceedings, examinations, trials and judgments, may be thereupon had and given as may be according to law and justice.

E. T. BEATTY,  
Speaker of the Assembly.

Attest:

W. CAMPBELL, Clerk of Assembly.

Mr. Ashley offered the following resolution, which was adopted :

*Resolved*, That a Committee of five be appointed to consider and report to the Senate, for its consideration, the proceedings which should be taken, and the rules to be observed, in the matter of the impeachment of Henry Bates.

Whereupon, the President announced as said Committee—Messrs. Ashley, Coffroth, Mandeville, McCallum and Walkup.

The hour having arrived for the consideration of the special order of the day, Senate Bills Nos. 24 and 25 were taken up, and considered in Committee of the Whole. Mr. Walkup in the chair.

The Committee rose, and reported the bills and amendments of the Special Committee to the Senate.

In Senate the amendments were adopted.

Mr. Coffroth moved that the bills and the whole subject matter be indefinitely postponed.

Pending the question upon which, after much debate, on motion of Mr. Westmoreland, the Senate adjourned.

S. H. DOSH,  
President Senate pro tem.

Attest:

GEO. S. EVANS, Secretary Senate.

## IN SENATE.

THURSDAY, February 19th, 1857.

Senate met pursuant to adjournment.  
 President pro tem. in the chair.  
 Roll called.

Mr. Bynum was granted leave of absence for two days.

Journals of yesterday read and approved.

Mr. Crandall presented the petition of citizens of Amador county praying for the passage of a Sunday Law, which was referred to the Committee on Public Morals.

Mr. Johnson of Sacramento, presented the petition of W. L. De Witt, Surveyor of Sacramento county, praying for relief, which was referred to the Committee on Claims.

Mr. Melony, Chairman of the Committee on Engrossed Bills, made the following report:

*Mr. President :*

The Committee on Engrossed Bills have examined Senate Bill No. 79, entitled "An Act to amend an act entitled an Act to organize the county of Plumas," passed March 18th, 1854.

Also, Senate Bill No. 99, entitled "An Act to amend an act entitled an Act to create a Board of Supervisors in the counties of this State, and to define their duties and powers," approved March 20th, 1855.

And, also, Senate Bill No. 101, entitled "An Act to provide for compensating Brig. General Winn in full, for military services," and find the same correctly engrossed.

A. R. MELONY,  
 Chairman.

February 18th, 1857.

Report accepted and Bills placed on general file.

The following message was received from the Assembly:

*Mr. President :*

I am directed to inform the Senate that the Assembly, on yesterday, concurred in Senate amendments to Assembly Bill No. 65, an Act to fund the debt of the county of Sutter.

Also, in Senate amendments to Assembly Bill No. 141, an Act explanatory of an act to reduce and establish the salaries of officers and pay of members of the Legislature, approved April 21st, 1856.

Also, passed Assembly Bill No. 109, an Act to create a Board of Water Commissioners in the county of San Bernardino, and to define their duties, &c.

Also, Assembly Bill No. 84, an Act concerning lawful fences in the county of Contra Costa.

Also, Assembly Bill No. 114, an Act to prevent the owners of saw mills and other persons, from obstructing the channels of Humboldt Bay and Harbor.

Also, have amended Senate amendments to Assembly Bill No. 75, an Act to extend an act concerning hogs found running at large in the counties of Marin, Sacramento, San Francisco, Stanislaus, Alameda, Yuba and Santa Clara, approved April 21st, 1856, and respectfully ask the concurrence of the Senate.

Also, Assembly Bill No. 47, an Act to declare Feather River navigable

W. CAMPBELL,

Clerk of Assembly.

Assembly Bill No. 109, an Act to create a Board of Water Commissioners in the county of San Bernardino, and to define their duties, &c., was taken up, read first and second times, and referred to the Senator from Los Angeles county.

Assembly Bill No. 84, an Act concerning lawful fences in the county of Contra Costa, was read first and second times, and referred to the Delegation from Contra Costa county.

Assembly Bill No. 114, an Act to prevent the owners of saw mills and other persons, from obstructing the channels of Humboldt Bay and Harbor, was read first and second times, and referred to the Committee on Commerce and Navigation.

Assembly Bill No. 75, an Act to extend an act concerning hogs found running at large in the counties of Marin, Sacramento, San Francisco, Stanislaus, Alameda, Yuba and Santa Clara, approved April 21st, 1856, with amendment to Senate amendment, was, on motion of Mr. Mandeville, laid on the table.

Assembly Bill No. 47, an Act to declare Feather River navigable, was read first and second times, and referred to the Committee on Commerce and Navigation.

Mr. Ashley, Chairman of the Judiciary Committee, made the following report:

*Mr. President :*

The Judiciary Committee, to whom was referred Senate Bill No. 7, entitled "An Act to protect from forced sale a certain portion of the homestead and other property of all heads of families," have had the same under consideration, and beg leave to offer the following substitute, and recommend its passage, to

wit: An Act amendatory of and supplementary to, an Act to exempt the homestead and other property from forced sale in certain cases, passed April 21st, 1851.

D. R. ASHLEY,  
Chairman.

Report accepted and Bill placed on general file.

Mr. Ashley, Chairman of the Judiciary Committee, also made the following report:

*Mr. President :*

The Judiciary Committee, to whom was referred Senate Bill No. 39, entitled "An Act to amend an act entitled an Act to regulate the estates of deceased persons," passed May 1st, 1851, and the acts amendatory thereof, (Compiled Laws, p. 377,) have had the same under consideration and beg leave to report the same back to the Senate with sundry amendments, and recommend its passage as amended:

Strike out Sections two, three, five and six.

Section seven, line 8, strike out all after the words "personal property."

Strike out Section ten and insert:

SEC. 10. Section 167 is hereby amended so as to read as follows: Section one hundred and sixty-seven. Such sale shall be in the county where the lands are situated, at public auction, between the hours of nine A. M. and five P. M., the same day; *Provided* that for good reason shown the Probate Judge may order a private sale, but no private sale shall be effectual for any purpose until reported to the Probate Court and approved by the same.

Section fourteen, line 3, after the word "the" insert the words "property and;" line 5, strike out the words "of his real," and insert after the word "rents" the words "and demands due the;" line 6, after the word "estate," insert the following: "and under the direction and approval of the Court, may lease or hire out the same for the benefit of the estate."

Strike out Section fifteen and insert as follows:

SEC. 15. Actions for the recovery of any property, real or personal, or for the possession thereof, or for trespass upon or injury to the same, and all actions founded upon contracts, may be maintained by and against executors and administrators, in all cases in which the same might have been maintained by or against their respective testators or intestates.

Strike out Section sixteen and insert the following:

SEC. 16. The debts of the estate shall be paid in the following order: First, funeral expenses; second, the expenses of the last sickness; third, debts having preference by the laws of the United States; fourth, judgments rendered against the deceased in his lifetime, and mortgages according to the priority of the lien thereof; fifth, all other demands against the estate.

Strike out Sections seventeen, eighteen and twenty.

Section two hundred and eighty-two of said Act, is hereby amended so as to read as follows:

SEC. 282. During a suspension of the powers of the Executor or Administrator, or upon his removal, the Probate Judge may, if the condition of the estate requires it, appoint a special Administrator to take charge of the effects of the estate, who shall give bond and render accounts as other special Administrators



are required to do; or he may order the Public Administrator of his county, if there be one, to take charge of the estate.

Section two hundred and twenty-nine is hereby amended so as to read as follows:

SEC. 229. Whenever the authority of an Executor or Administrator, or Public Administrator, for any reason, shall cease or be revoked, he may be cited to account before the Probate Court at the instance of the person succeeding to the administration of the same estate or at the instance of any person interested in the estate; and if he shall refuse or neglect to render a full account when cited, may be punished for a contempt of Court, and be imprisoned until he shall render such account.

All of which is respectfully submitted.

D. R. ASHLEY,  
Chairman.

Report accepted and Bill placed on general file.

Mr. Taliaferro introduced a Bill entitled "An Act to provide for issuing patents to locators of Land Warrants," which was read first and second times, and referred to the Committee on Public Lands.

Mr. Merritt introduced a Bill entitled "An Act authorizing the United States to purchase lands for public purposes," which was read first and second times and referred to the Committee on Federal Relations.

On motion of Mr. Taliaferro, Assembly Bill No. 122, an Act to extend the time of collecting taxes in the county of Marin, was taken from the table, and on motion of Mr. Merritt, was recommitted to the Judiciary Committee with special instructions.

Mr. Mandeville moved to take up the unfinished business of yesterday. The Chair ruled that the question involved a suspension of the rules and required a two-third vote. Mr. Mandeville appealed from the decision of the Chair.

The question being, "shall the decision of the Chair stand as the will of the Senate," the ayes and noes were demanded by Messrs. Mandeville, Cosby and Chase, and taken with the following result:

#### AYES.

Messrs. Ashley, Chase, Coffroth, Cosby, Crandall, De La Guerra, Goodwin, Johnson of Sacramento, McCallum, Mesick, Soule and Taliaferro—12.

#### NOES.

Messrs. Burnett, Mandeville, McGee, Melony, Merritt, Norman, Shaw and Walkup—8

Messrs. Bell, Sullivan and Wilson declined voting.

So the decision of the Chair was sustained.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly refuse to concur in Senate substitute to Assembly Bill No. 78, an Act making appropriations to defray the civil expenses of government from the first of February, 1857, to the 30th of June inclusive. The Assembly have appointed a Committee of Free Conference, consisting of Messrs. Brent, Wood and Burch, and respectfully ask the Senate to appoint a similar Committee on the part of the Senate.

W. CAMPBELL,  
Clerk of Assembly.

February 19th, 1857.

On motion of Mr. Coffroth, the following Committee of Free Conference was announced by the President pro tem., to confer with a like Committee of the Assembly on Senate Substitute to Assembly Bill No. 78, an Act making appropriations to defray the civil expenses of government from 1st February, 1857 to the 30th June, 1857, inclusive:—Messrs. Coffroth, Ashley and Mandeville.

The following report was, by leave, made by the Judiciary Committee:

*Mr. President:*

The Judiciary Committee, to whom was referred Assembly Bill No. 122, an Act to extend the time of collecting taxes in the county of Marin, with special instructions, beg leave to report the same back with the following amendments, and recommend its passage:

Add to Section first, "*Provided* that nothing in this Act shall be so construed as to release in any way the sureties on the official bond of the Sheriff of Marin county."

SEC. 2. The Board of Supervisors of Marin county may require of the Sheriff to give additional bonds, if they shall deem it necessary, for the security of the public moneys to be collected by the extension granted in this Act.

All of which is respectfully submitted.

MERRITT,  
From the Committee.

Report accepted, amendments adopted, Bill read third time and passed.

On motion of Mr. McCallum, the rules were suspended, and the unfinished business of yesterday was taken up, being Senate Bill Nos. 24 and 25. The question pending upon the adjournment yesterday being the indefinite postponement of the whole subject matter, after much time spent in debate, Mr. Sullivan moved the previous question.

Mr. Norman moved a call of the Senate.

Carried.

The roll being called by the Secretary, Mr. McGee and Mr. Wilson were absent

The Sergeant-at-Arms was dispatched for the absentees.

Mr. McCallum moved the suspension of all further proceedings under the call.

On motion of Mr. Ferguson, Senator Wilson was admitted within the bar of the Senate.

Question on the motion of Mr. McCallum was put and lost.

Mr. Ferguson of Sacramento moved that further proceedings under the call of the Senate be suspended, which was put and lost.

Mr. Westmoreland, moved a reconsideration of the vote, which was put and lost.

Mr. Taliaferro moved that further proceedings under the call of the Senate be suspended.

Carried.

Mr. Cosby moved that the Senate adjourn. Upon which the ayes and noes were demanded by Messrs. Coffroth, Cosby and Merritt, and taken with the following result:

#### AYES.

Messrs. Ashley, Bell, Burnett, Carpenter, Cosby, Dosh, Goodwin, Johnson of El Dorado, Merritt, Wilson—10

#### NOES.

Messrs. Chase, Coffroth, Crandall, De La Guerra, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Johnson of Sacramento, Mandeville, McCallum, Melony, Mesick, Norman, Shaw, Soule, Sullivan, Taliaferro, Walkup, Westmoreland—19.

So the Senate refused to adjourn.

The call for the previous question being sustained, the question being "shall the main question be now put," was taken and carried.

The main question being the indefinite postponement of the whole subject matter, the ayes and noes were demanded by Messrs. Coffroth, Melony and Westmoreland, was taken with the following result:

#### AYES.

Messrs. Bell, Burnett, Chase, Coffroth, De La Guerra, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Mesick, Soule, Sullivan, Taliaferro, Westmoreland—15.

## NOES.

Messrs. Ashley, Carpenter, Cosby, Crandall, Dosh, Johnson of El Dorado, Mandeville, McCallum, Melony, Merritt, Norman, Shaw, Walkup, Wilson—14.

Before the result was announced, Mr. Norman changed his vote from no to yes, making the result 16 ayes to 13 noes.

So the whole subject matter was indefinitely postponed.

Mr. Norman gave notice that on to-morrow he would move a reconsideration of the vote.

Mr. McCallum moved that the Senate adjourn. Upon which the ayes and noes were demanded by Messrs. Coffroth, Ferguson of Sacramento and Soule, and taken with the following result:

## AYES.

Messrs. Ashley, Bell, Burnett, Carpenter, Chase, Cosby, Crandall, De La Guerra, Dosh, Ferguson of Sierra, Goodwin, Johnson of El Dorado, Mandeville, McCallum, Melony, Merritt, Mesick, Norman, Shaw, Sullivan, Walkup, Wilson—22.

## NOES.

Messrs. Coffroth, Ferguson of Sacramento, Fiske, Johnson of Sacramento, Soule, Taliaferro, Westmoreland—7.

So the Senate adjourned.

Approved February 20th, 1857.

S. H. DOSH,  
President Senate pro tem.

Attest:

GEO. S. EVANS, Secretary Senate.



## IN SENATE.

FRIDAY, February 20, 1857.

Senate met pursuant to adjournment.

President *pro tem.* in the chair.

Roll called.

Journal of yesterday read and approved.

The following communication was received from the Secretary of State :

OFFICE OF SECRETARY OF STATE, }  
 Sacramento, Cal., Feb. 18, 1857. }

*To the President of the Senate:*

SIR:

In reply to a resolution of the Senate, of yesterday, I have the honor to reply, that there has been received into the "Library Fund" up to the 1st day of January, 1857, twenty-five hundred and fifty-five dollars and thirty cents.—(See Report of the Secretary of State to Governor). Since the 1st day of January, 1857, there has been received two hundred and fifty-nine dollars.

Respectfully, your obedient servant,

DAVID F. DOUGLASS,  
 Secretary of State.

Mr. Johnson of Sacramento offered an account of Messrs. Baker & Swinerton against the State.

Referred to Committee on Claims.

Mr. Melony made the following report:

*Mr. President:*

Your Committee, to whom was referred Assembly bill No. 84, an Act concerning lawful fences in the County of Contra Costa, have had the same under consideration, and respectfully report the same back to the Senate, and recommend its passage.

A. R. MELONY.

Report accepted, and bill placed on general file.

Mr. Wilson made the following report:

*Mr. President :*

The Delegation to whom was referred Assembly bill No. 109, an Act to create a Board of Water Commissioners in the County of San Bernardino, and to define their duties, beg leave to report the same back without amendment, and recommend its passage.

B. D. WILSON,  
Of Committee.

Report accepted, and bill placed on General File.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly, on yesterday, passed Assembly bill No. 153, an Act to pay E. H. Burns for services in Indian war.

Also, have amended and passed Senate bill No. 63, an Act relative to the Board of Supervisors of Santa Barbara County.

And respectfully ask the Senate to concur in the amendments.

The Assembly refuse to concur in Senate amendments to Assembly bill No. 15, an Act to guard against the destruction of property by means of sparks from chimneys of steamboats navigating certain waters of this State.

W. CAMPBELL,  
Clerk Assembly.

Assembly bill No. 153, an Act to pay E. H. Burns for services in Indian war, was taken up, read first and second times, and referred to the Committee on Claims.

Senate bill No. 63, an Act relative to the Board of Supervisors of Santa Barbara County, with amendments reported from the Assembly, was placed on general file.

Assembly bill No. 15, an Act to guard against the destruction of property by means of sparks from the chimneys of steamboats navigating certain waters of this State, was placed upon general file.

The following message was received from the Assembly:

*Mr. President:*

I am directed to return to the Senate Assembly bill No. 65, an Act to fund the debt of the County of Sutter, in order to have the amendments made by the Senate more definitely marked out.

Also have concurred in Senate amendments to Assembly bill No. 122, an Act to extend the time of collecting taxes in the County of Marin.

W. CAMPBELL,  
Clerk of Assembly.

Assembly bill No. 65, reported back from the Assembly in order that Senate amendments might be more definitely marked out, was referred to the Senator from Yuba, Mr. Goodwin, with special instructions.

Mr. Taliaferro, by leave, withdrew Senate bill No. 103.

Mr. Burnett offered the following resolution:

*Resolved*, That any member of the Committee on Claims shall have the power to send for persons and papers, and to administer oaths.

Adopted.

#### GENERAL FILE.

Senate bill No. 102, an Act to authorize the Board of Supervisors in and for the County of Shasta to levy a special tax for the erection of Public Buildings in said County, was considered engrossed, read a third time, and passed.

Resolution of Assembly relative to the impeachment of Henry Bates, with articles of impeachment, were, on motion of Mr. Shaw, laid on the table.

Senate bill No. 74, an Act for the establishing of the first day of the week as a day of rest from secular employment, was, on motion of Mr. Norman, recommended to the Committee on Public Morals.

Senate bill No. 87, an Act to authorize the Construction of certain Wharves upon the Straits of Carquines, and certain Turnpike Roads from the same, was indefinitely postponed.

Mr. Ashley, by leave, made the following report:

*To the President of the Senate:*

Your Committee to prepare Rules for the Senate in matters of Impeachments, have considered the matter, and agreed upon a system of Rules as herewith reported, and recommend the adoption of the same.

D. R. ASHLEY,  
Chairman.

#### RULES OF THE SENATE IN CASES OF IMPEACHMENT.

When the Assembly shall present to the Senate a resolution of Impeachment, the Secretary of the Senate shall inform the Assembly that it is willing to take order and issue process upon the presentation of the Articles of Impeachment to the Senate.

When Articles of Impeachment are exhibited and presented to the Senate, the President shall inform the Committee, or Managers, from the Assembly, that the Senate will take proper order, of which due notice will be given to the Assembly.

The Senate shall assign a day for the hearing of the Impeachment, and the President shall cause a copy of the Articles of Impeachment, with a summons or notice to appear and answer the same at the time and place appointed, to be served on the defendant at least ten days before the time appointed for the hearing, which notice, including said copy of the articles, shall be substantially in the following form.

*The People of the State of California*

To ——— greeting:

Whereas the Assembly of the State of California did, on the — day of —, exhibit to the Senate Articles of Impeachment against you, the said —, in the words following:

(Here insert a copy of the Articles.)

You the said — are therefore hereby summoned and notified to be and appear before the Senate of the State of California, at their Chamber, in the city of Sacramento, on the — day of — at 12 o'clock, M, then and there to answer to the said articles of impeachment, and then and there to abide by, obey and perform such orders and judgments as the Senate of the State of California shall make in the premises, according to the constitution and laws of the State of California. Hereof fail not.

Witness —, President of the Senate thereof at the city of Sacramento, this — day of —, in the year of our Lord —; which summons shall be signed by the Secretary of the Senate, and served by the Sergeant-at-Arms of the Senate, or by such other person as the Senate shall specially appoint for that purpose, who shall serve the same pursuant to the directions given in the form next following:

A precept shall be indorsed on said writ of summons, in the form following, viz:

*The People of the State of California,*

To ——— greeting:

You are hereby commanded to deliver to — if to be found, a true and attested copy of the within writ of summons, and articles of impeachment. Let service be made at least — days before the appearance day mentioned in said writ of summons. Fail not: and make return of this writ of summons and precept with your proceedings thereon indorsed, on or before the appearance day mentioned in said writ of summons.

Witness —, President of the Senate thereof, at the city of Sacramento, this — day of —, in the year of our Lord —, which precept shall be signed by the Secretary of the Senate.

Subpœnas shall be issued by the Secretary of the Senate upon application of the managers of the impeachment, or of the party impeached, or of his counsel, in substantially the following form, viz:



To ——— greeting :

You and each of you are hereby commanded to appear before the Senate of the State of California, on the — day of —, at the Senate Chamber, in the city of Sacramento, then and there to testify your knowledge in the cause which is before the Senate, in which the House of Assembly have impeached ———. Fail not.

Witness ———, President of the Senate thereof at the city of Sacramento, this — day of —, in the year of our Lord —, which shall be signed by the Secretary of the Senate, which subpoenas shall be directed, in every case, to the — where such witnesses respectively reside, to serve and return.

The form of direction for service of a subpoena shall be substantially as follows :

*The People of the State of California,*

*To the ———.*

You are hereby commanded to serve and return the within subpoena, according to law.

Dated at Sacramento this — day of —, in the year of our Lord —,

Secretary of the Senate.

The President of the Senate shall direct all necessary preparations in the Senate Chamber, and all the forms of proceedings while the Senate are sitting for the purpose of trying an impeachment, and all forms during the trial not otherwise specially provided for by the Senate.

At 12 o'clock of the day appointed for the return of the summons against the person impeached, the Legislative and Executive business of the Senate shall be suspended, and the Secretary of the Senate shall administer an oath to the returning officer in the form following, *viz* :

I ———, do solemnly swear that the return made and subscribed by me, upon the process issued on the — day of — by the Senate of the State of California, against ———, is truly made, and that I have performed said services as therein described, "So help me God."

Which oath shall be entered at large on the record.

The person impeached shall then be called to appear, and answer the Articles of Impeachment against him. If he appears, or any person for him, the appearance shall be recorded, stating particularly if by himself, or by agent or attorney; naming the person appearing, and the capacity in which he appears. If he does not appear either personally or by agent or attorney, the same shall be recorded.

At 12 o'clock of the day appointed for the trial of an Impeachment, the Legislative and Executive business of the Senate shall be postponed. The Secretary shall then administer the following oath or affirmation to the President :

You solemnly swear or affirm, that in all things appertaining to the trial of the Impeachment of ——— you will do impartial justice, according to the Constitution and laws of this State.

And the President shall administer said oath or affirmation to each Senator present.

The Secretary shall then give notice to the Assembly that the Senate is organized as a Court of Impeachment, and is ready to proceed upon the Impeachment of ——— in the Senate Chamber.

Counsel for the parties shall be admitted to appear, and be heard upon an Impeachment.

All motions made by the parties, or their counsel, shall be addressed to the President of the Senate, and, if he shall require it, shall be committed to writing, and read at the Secretary's table.

Witnesses shall be sworn in the following form, to wit: "You, ———, do swear or affirm, (as the case may be,) that the evidence you shall give in the case now depending between the State of California and ———, shall be the truth, the whole truth and nothing but the truth, so help you God." Which oath shall be admitted by the Secretary.

Witnesses shall be examined by the party producing them, and then cross-examined in the usual form.

If a Senator is called as a witness, he shall be sworn and give his testimony standing in his place.

At all times, while the Senate is setting upon the trial of an impeachment, the doors of the Senate Chamber shall be kept open until the final argument by the counsel of the parties is closed.

Any Senator shall have the right to ask questions of a witness under examination.

Report accepted and rules adopted.

Mr. Ashley moved that a Committee of three be appointed to superintend the issuing of process and the direction of all preliminary steps in the matter of the impeachment of Henry Bates.

Mr. Shaw moved to strike out words "Committee of three" and insert the "Attorney General be notified," which was adopted.

Mr. Mandeville moved to lay the resolution on the table, which was carried.

Mr. Mandeville then offered the following resolution:

*Resolved*, That the Senate of the State of California will, on Thursday, March 5th, 1857, at 12 o'clock M., meet as a High Court of Impeachment, for the purpose of trying Henry Bates, late Treasurer of State.

*Resolved*, That the Secretary notify the Assembly and Henry Bates.

Mr. Shaw moved to amend the second resolution by adding the words "and the Attorney General," which amendment was accepted, and the resolutions as amended adopted.

Mr. Ashley made the following report:

*To the President of the Senate :*

The Joint Committee on Enrollment have examined and found correctly enrolled, an Act explanatory of an act entitled "An Act to reduce and establish the salaries of officers and pay of members of the Legislature," approved April 21st, 1856.

D. R. ASHLEY,

Of the Committee.

Mr. Norman, by unanimous consent, had leave to change his vote of yesterday on the indefinite postponement of Senate Bills Nos. 24 and 25, relative to corporations, and withdrew his notice to reconsider.

#### GENERAL FILE.

Senate Bill No. 95, an Act to authorize the Executor or Administrator of the estate of Josefa Soto De Stokes, deceased, to sell the real estate of said deceased at public or private sale, considered in Committee of the Whole, reported back without amendments and ordered engrossed.

Senate Bill No. 71, an Act concerning official bonds, with substitute offered by Judiciary Committee, was considered in Committee of the Whole; after some time spent, was reported to Senate. In Senate, the substitute was adopted and recommitted to Judiciary Committee with special instructions.

Mr. Merritt, by leave, made the following report:

*Mr. President :*

The Committee on Federal Relations, to whom was referred Senate Bill No. 104, an Act authorizing the United States to purchase lands for public purposes, have had the same under consideration and beg leave to report the same back to the Senate, and respectfully recommend its passage.

Similar Acts have been passed by the Legislatures of New York, South Carolina and other seaboard States, granting to the Federal Government the right to purchase private property for the purpose of erecting light-houses and fortifications.

All of which is respectfully submitted.

MERRITT,

Chairman Committee on Federal Relations.

Report accepted and Bill placed on Calendar.

Mr. Merritt, by leave, introduced a Bill for an Act concerning Notaries Public, which was read first and second time and referred to Judiciary Committee.

Leave of absence was granted to Mr. Walkup for two days.

Mr. Goodwin, to whom was referred Assembly Bill No. 65, made the following report:

*Mr. President :*

The Committee to whom was referred Assembly Bill No. 65, to correct amendment heretofore adopted by this Senate, recommend the following as a substitute for those heretofore adopted:

Section first of said Bill, 2d line, strike out "17th day of May" and insert "1st day of March. And on 11th and 12th lines of first Section, strike out "sums of one hundred and five hundred dollars," and insert "any sum not less than one hundred nor more than one thousand dollars."

Section fifth, 4th line, strike out the word "three" and insert the word "one."

Section tenth, 41st line, strike out the word "newspaper" and insert the word "manner."

Report accepted and amendments adopted, by the unanimous consent of the Senate.

The following report was received from the Judiciary Committee:

*Mr. President :*

The Judiciary Committee, to whom was referred Senate Bill No. 7, entitled "An Act to protect from forced sale a certain portion of the homestead and other property of all heads of families," have had the same under consideration and beg leave to offer the following substitute, and recommend its passage, viz: an Act amendatory of and supplementary to, an Act to exempt the homestead and other property from forced sale in certain cases, passed April 21st, 1855.

D. R. ASHLEY,  
Chairman.

Report accepted, and on motion of Mr. Bell, the Bill, substitute and report, was laid on the table.

The Committee of Free Conference, on Assembly Bill No. 78, made the following report:

*Mr. President :*

Your Committee of Conference, appointed in reference to an Act making appropriations to defray the civil expenses of the government from the 1st day of February, 1857, to the 30th day of June, 1857, inclusive, would respectfully report, that they have adopted Senate substitute with the following amendments, and recommend the passage of the substitute as amended:



Section one, third line from bottom of page 1, add "five hundred dollars for extra clerk hire of State Treasurer."

Page 2, Section one, line 14 from top, add "and for draughtsman of Surveyor General, twelve hundred and fifty."

Page 2, Section one, line 14 from bottom, strike out "seven hundred and fifty" and insert "nine hundred and fifty," (for Superintendent of Public Instruction.)

Page 2, Section one, line 4 from bottom, strike out "seven hundred and fifty" and insert "one thousand and fifty," (for Attorney General.)

Page 3, line 17 from bottom, strike out "twenty-nine thousand and fifty-six" and insert "twenty-two thousand five hundred and twenty-eight," (for Lieut. Governor and Senators.)

Page 2, Section one, lines 13 and 14 from bottom, strike out "fifty-seven thousand and thirty-eight" and insert "fifty-two thousand one hundred and thirty," (for members of Assembly.)

Section one, page 3, lines 4 and 5 from bottom, strike out "two hundred and fifty" and insert "one thousand," (contingent expenses of Board of Examiners,) and for salaries, "seven hundred and fifty dollars."

Page 4, Section one, lines 2 and 3 from top, strike out "one thousand" and insert "twelve hundred and fifty," (contingent for Supreme Court.)

Page 4, Section one, line 13 from bottom, strike out "four hundred" and insert "eight hundred," (indexing Journals of Senate and Assembly.)

Section one, page 5, lines 7 and 8 from bottom, strike out "thirteen thousand nine hundred and two dollars" and insert "eleven thousand three hundred and seventy-five," (for officers and attachées of the Assembly.)

Page 5, Section one, lines 2 and 3 from bottom, strike out "sixteen thousand one hundred and sixteen" and insert "thirteen thousand," (for officers and attachées of the Senate.)

JAS. W. COFFROTH,

Chairman Senate Committee.

J. LANCASTER BRENT,

Chairman Assembly Committee.

Report accepted and amendments considered.

Mr. Coffroth moved that the amendments of the Committee be adopted; upon which, the ayes and noes were demanded by Messrs. Merritt, McCallum and Shaw, and taken with the following result:

AYES.

Messrs. Bell, Chase, Coffroth, Crandall, De La Guerra, Dosh, Ferguson of Sierra, Goodwin, Johnson of Sacramento, Mandeville, McGee, Melony, Norman, Soule, Taliaferro, Wilson—16.

NOES.

Messrs. Burnett, Carpenter, Fiske, McCallum, Merritt, Shaw—6.

So the amendments were adopted.

Mr. Burnett moved that 240 copies of Senate Bill No. 17, an Act relating to State Printer, be printed, which the President decided as not in order.

Mr. Merritt moved that the Committee on Public Printing be instructed peremptorily to report Senate Bill No. 17, to the Senate on Monday next:

On motion of Mr. Fiske, the Senate adjourned.

Approved February 21st, 1857.

R. M. ANDERSON,  
President Senate.

Attest :

GEO. S. EVANS, Secretary Senate.

## IN SENATE.

SATURDAY, February 21st, 1857.

Senate met pursuant to adjournment.  
President in the chair.  
Roll called.

Leave of absence was granted to Mr. Sullivan for three days and to Mr. Ashley for two days.

Journals of yesterday read and approved.

Mr. Mandeville presented the petition of sundry citizens of the State, praying for the passage of a Sunday law, which was referred to the Committee on Public Morals.

Mr. Bell presented the petition of citizens of Alameda County, praying the passage of a Sunday law, which was referred to the Committee on Public Morals.

Mr. Coffroth, Chairman of the Committee on Public Expenditures, asked for further time to report, which, on motion of Mr. McCallum, was extended to Wednesday next, March 25th.

Mr. Burnett presented the petition of W. R. Gorham, assignee of A. T. Melvin, praying for relief, which was referred to the Committee on Claims.

Mr. Taliaferro introduced a bill for an Act to provide for issuing patents to locators of Land Warrants, which was read first and second times, and referred to the Committee on Public Lands.

Mr. McCallum introduced a bill for an Act to amend an Act entitled "an Act to authorize certain officers and other persons to administer oaths," passed January 27th, 1853, which was read first and second times, and placed on the calendar.

Mr. Mandeville moved that the Secretary be authorized to have 240 copies of Subpœnas printed for use in cases of impeachment.

Mr. Ferguson of Sacramento, Chairman of the Committee on Public Printing, announced that the Committee would report the bill referred to them relating to Public Printing on Monday next, and asked that the usual number (240 copies) of the bill be printed for distribution on that day, which was agreed to.

Mr. Shaw, by leave, made the following report:

*Mr. President :*

The Committee on Claims, to whom was referred the Act to pay E. H. Burnes for services in Indian war, have duly examined the same, taken due proof of the correctness and propriety of said claim, and unanimously recommend its passage.

In behalf of Committee,

W. J. SHAW,  
Chairman.

Report accepted and bill placed on general file.

#### GENERAL FILE.

Senate bill No. 39, an Act to amend an act entitled "an Act to regulate the settlement of the estates of deceased persons," passed May 1st, 1851, and the acts amendatory thereof, was taken up and considered in Committee of the Whole.

After some time spent in consideration of the bill and amendments, the Committee reported the same.

In Senate.

Amendments of Committee and of Committee of the Whole concurred in, and on motion of Mr. Mandeville, 240 copies of the bill ordered to be printed, and bill placed on calendar.

By unanimous consent, Mr. McCallum moved to amend as follows:

Insert after the words "section 16th" the words "section 239 is amended to read as follows: Section 139," which was adopted.

Senate bill No. 79, an Act to amend an act entitled "an Act to organize the

County of Plumas," passed March 18th, 1854, was read a third time, and passed.

Senate bill No. 99, an Act to amend "an Act to create a Board of Supervisors in the Counties of this State, and to define their duties and powers," approved March 20th, 1855, was read a third time and passed.

Senate bill No. 101, an Act to provide for compensating Brigadier General Winn in full for military services," was read a third time and passed.

Senate bill No. 63, an Act relative to the Board of Supervisors of Santa — County, was taken up and amendments of the Assembly concurred in.

#### SPECIAL ORDER OF THE DAY.

The hour having arrived for the special order of the day, the resolutions relative to an adjournment *sine die* was taken up.

Mr. Mandeville moved to amend by striking out "4th of March" and inserting "6th of April."

Mr. Bell moved to lay the whole subject matter upon the table.

Mr. Mandeville moved a call of the Senate, which was carried.

Upon the roll being called, Messrs. Carpenter, Dosh and McGee were found absent, and the Sergeant-at-Arms dispatched to arrest them.

Mr. McCallum in the Chair.

Mr. Goodwin moved that further proceedings under the call of the Senate be suspended

Carried.

The motion of Mr. Bell to lay upon the table was then put.

Lost.

Question recurring upon the motion of Mr. Mandeville to strike out "March 4th" was put.

Carried.

Question being on the motion of Mr. Mandeville to insert "6th April."

Mr. Shaw moved to amend by inserting "23d March."

Lost.

Mr. Cosby in the Chair.



Mr. Goodwin moved to postpone until the 14th inst.

The ayes and noes were demanded by Messrs. Coffroth, Mandeville and Norman, and taken with the following result:

AYES.

Messrs. Bell, Burnett, Bynum, Chase, Coffroth, Cosby, Crandall, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Melony, Mesick and Taliaferro—17.

NOES.

Messrs. De La Guerra, Mandeville, McCallum, Norman, Shaw, Soule and Wilson—7.

So the whole subject matter was made the special order of the day for Saturday, March 14th, 1857, at 12 M.

Mr. Taliaferro, Chairman of Committee on Hospitals, made the following report:

*Mr. President:*

Your Committee on Hospitals, to whom was referred the memorial of the Sisters of Mercy of San Francisco, concerning the care and maintenance of the indigent sick of the State, have taken some pains to investigate this claim, and by an examination of the Hospital Register list kept of the sick, who have been under their charge, and of affidavits and witnesses, find that from the 24th of October, 1855, to the 1st of February, 1857, two hundred and eighty-six indigent sick of the State, coming variously, with the exception of the County of San Francisco, from the different Counties of the State, have been taken care of and maintained by them.

Your Committee are well aware that this claim is not a legal one against the State, but recognize it as one of equity, and appealing irresistibly to our feelings of humanity. They also find that the Sisters of Mercy have, in their devotion to the sufferings and wants of their fellow creatures, incurred pecuniary liabilities which greatly embarrass them in their efforts to do good.

Your Committee would, therefore, recommend to the favorable consideration of the Senate, the memorial of the Sisters of Mercy, and beg leave to introduce in connection with this report a bill for their relief.

A. W. TALIAFERRO.

Chairman

Report accepted.

Bill read first and second time, and referred to Committee on Claims.

Mr. Taliaferro moved that the Senate adjourn until Tuesday next.

Mr. Dosh offered the following resolution as a substitute.

*Resolved*, That this House, as a mark of respect to the memory of WASHINGTON, when it adjourns to-day, adjourns over to Tuesday next, so that members may be afforded an opportunity of celebrating in an appropriate manner the anniversary of the birthday of the Father of his Country.

Mr. Mandeville in the Chair.

Mr. McCallum moved to lay on the table.

Lost.

Question on the adoption of the resolution.

The ayes and noes were demanded by Messrs. Norman, McCallum and Shaw, and taken with the following result:

AYES.

Messrs. Ashley, Bell, De La Guerra, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Johnson of El Dorado, Mesick, Soule, Taliaferro and Westmoreland—12.

NOES.

Messrs. Bynum, Chase, Coffroth, Cosby, Crandall, Goodwin, Mandeville, McCallum, McGee, Melony, Norman, Shaw and Wilson—13.

So the resolution was rejected.

The following message was received from the Assembly :

*Mr. President :*

I am directed to inform the Senate that the Assembly have this day passed Senate bill No. 96, with amendments, and ask the concurrence of the Senate in the same.

W. CAMPBELL,  
Clerk of Assembly.

February 21, 1857.

Senate bill No. 96, "an Act to grant to the Sheriff of Tuolumne county additional time to make his annual settlement for the collection of State and county taxes for the year 1856" was considered and amendments of Assembly concurred in.

GENERAL FILE.

Assembly bill No. 75, "an Act to guard against the destruction of property by means of Sparks from the chimneys of Steam Boats navigating certain waters of

this State"—question being, shall the Senate recede from its amendments, was put and decided in the negative.

On motion of Mr. Soule, a committee of free conference, consisting of three, was appointed to consider the bill in connexion with a like committee on the part of the Assembly, whereupon the following committee was announced, Messrs. Soule, Melony and Burnett.

Senate bill No. 104, "an Act authorizing the United States to purchase lands for public purposes," was placed at foot of calendar.

Assembly bill No. 84, "an Act concerning lawful fences in the county of Contra Costa," was read third time and passed.

Assembly bill No. 109, "an Act to create a Board of Water Commissioners in the county of San Bernardino, and to define their duties &c.," was read third time and passed.

The following message was received from the Assembly.

*Mr. President:*

I am directed to inform the Senate that the Assembly on yesterday adopted the report of the committee of free conference on Senate bill No. —, "an Act making appropriations to defray the civil expenses of government from the first of February 1857 to the thirtieth of June, 1857, inclusive. The bill was on to-day read third time and passed.

W. CAMPBELL,

Clerk Assembly.

February 21st, 1857.

The following report was received from the Engrossing Committee:

*Mr. President:*

The Committee on Engrossed Bills have examined Senate Bill No. 95, entitled "An Act to authorize the Executor or Administrator of the estate of Josefa Soto De Stokes, deceased, to sell the real estate of said deceased at public or private sale, and find the same correctly engrossed.

A. R. MELONY,

Chairman.

February 21st, 1857.

On motion of Mr. McCallum, the rule was suspended, and Senate Bill No. 107, an Act to amend an act, entitled "An Act to authorize certain officers and other persons to administer oaths," was taken up, considered engrossed, read third time and passed.

Mr. Taliaferro moved that the Senate adjourn; upon which, the ayes and noes were demanded by Messrs. McCallum, Johnson of El Dorado, and Shaw, and taken with the following result:

## AYES.

Messrs. Burnett, Bynum, Chase, Coffroth, Crandall, Ferguson of Sacramento, Johnson of Sacramento, McGee, Melony, Taliaferro and Westmoreland—11.

## NOES.

Messrs. Bell, Cosby, Dosh, Ferguson of Sierra, Fiske, Goodwin, Johnson of El Dorado, Mandeville, McCallum, Mesick, Norman, Shaw, Soule and Wilson—14.

So the motion was lost.

Mr. Coffroth moved that the Senate take a recess of half an hour.

Lost.

Mr. Taliaferro moved the Senate adjourn; upon which, the ayes and noes were demanded by Messrs. McCallum, Coffroth and Fiske, and taken with the following result:

## AYES.

Messrs. Burnett, Bynum, Chase, Coffroth, Cosby, Crandall, Ferguson of Sacramento, Ferguson of Sierra, Johnson of Sacramento, Melony, Soule, Taliaferro, Westmoreland and Wilson—14.

## NOES.

Messrs. Bell, Dosh, Fiske, Goodwin, Johnson of El Dorado, Mandeville, McCallum, McGee, Mesick, Norman and Shaw—11.

Messrs. Ashley, Sullivan and Walkup, were excused from voting.

So the Senate adjourned.

Approved February 23d, 1857.

R. M. ANDERSON,

President Senate.

Attest:

G. S. EVANS, Secretary Senate.



## IN SENATE.

MONDAY, February 23, 1857.

Senate met pursuant to adjournment.

President *pro tem.* in the Chair.

Roll called.

Journals of Saturday read and approved.

Leave of absence was granted to Mr. Carpenter for two days, and to Mr. Merritt for one day.

Mr. Johnson of El Dorado, presented the petition of sundry citizens of El Dorado County, praying the passage of a Sunday law.

Mr. Crandall presented petition of sundry citizens of Amador County, praying the passage of a Sunday law, both of which were referred to Committee on Public Morals.

Mr. Shaw presented the petition of sundry citizens of San Mateo County, praying the passage of a law legalizing the acts of the officers elect of said County, which was referred to the Special Committee to whom the bill was referred.

## REPORTS OF COMMITTEES.

The Committee on Public Printing made the following report:

The Committee on Public Printing, to whom was referred Senate bill No. 17, entitled an Act amendatory of and supplementary to an act entitled "an Act to create the office of State Printer," &c., have had the same under consideration, and respectfully recommend the adoption of the substitute herewith filed.

Your Committee believe, and their belief is based on the opinion of many of the best practical printers in the State, that the reduction of prices proposed by bill No. 17, would be such as to prevent any responsible person from undertaking to do the work. The Committee are further of opinion that the reduction from the present rates proposed by the substitute, while the prices would be sufficient to ensure the faithful and skilful performance of the public printing, the compensation would be moderate and reasonable.

W. I. FERGUSON,

Chairman.

WESTMORELAND,

Of Committee.

Report accepted, and 240 copies of substitute ordered printed, and bill and substitute made special order of day for Tuesday, March 3d, 1857, 12 o'clock M.

Mr. Fiske made the following report from the Committee on Claims:

*Mr. President :*

The Committee on Claims, to whom was referred the petition of Drs. H. & W. P. Gibbons for relief, have had the same under consideration, and after a thorough examination of the facts in the case, would report that in winding up the affairs of the State Marine Hospital at San Francisco in the spring of 1855, there were found to be 78 State patients, who were not able to be removed to their respective Counties, and humanity demanded that they should not be left without care or means of subsistence. Accordingly a contract was entered into between J. P. McFarland, Chairman of the Senate Hospital Committee, and Henry Bates, Chairman of the Assembly Hospital Committee, in behalf of the State, and Drs. Gibbons, by which said Gibbons entered into bonds to maintain said patients for one month from April 1st, 1855, to May 1, 1855, for which they were to receive one thousand eight hundred and eighty-five dollars for that period.

Your Committee believe the charges to be reasonable and the contract binding on the State; they therefore report favorably on the petition, and recommend the passage of the accompanying bill.

All of which is respectfully submitted.

HENRY FISKE,  
Of the Committee.

Report accepted, bill read first and second time, and placed on calendar.

The following message was received from the Assembly:

*Mr. President :*

I am directed to inform the Senate that the Assembly on Saturday, the 21st inst, passed Senate substitute for Assembly bill No. 59, on Act to fix the time of holding the several Courts authorized to be held by the County Judge of Santa Cruz.

Also, Senate bill No. 82, an Act to reduce the salary of the County Judge of El Dorado County.

Also, Assembly bill No. 152, an Act to amend an act entitled "an Act to incorporate Crescent City," passed April 13th, 1854.

W. CAMPBELL,  
Clerk of Assembly.

February 23, 1857.

Assembly bill No. 152, an Act to amend an act entitled "an Act to incorporate Crescent City," passed April 13th, 1854, was read first and second times, and referred to the Siskiyou Delegation.

Senate bill No. 82, an Act to reduce the salary of the County Judge of El Dorado County, with amendments by the Assembly, reported from the Assembly without noticing amendments.

On motion of Mr. Walkup, the Secretary was directed to return the message to Assembly for correction.

Mr. Mandeville offered the following resolution:

*Resolved by the Senate,* (The Assembly concurring,) That the Chairman of the Senate Committee of Free Conference on the General Appropriation Bill, and the Chairman of House Committee on the same bill, be added to the Committee on Enrolled Bills, for the purpose of Assisting the Committee on Enrolled Bills in the examination of the enrolled copy of an Act making appropriations to defray the civil expenses of the Government from the 1st of February, 1857, to the 30th of June, 1857, inclusive.

Unanimously adopted.

#### GENERAL FILE.

Senate bill No. 39, an Act to amend an Act entitled "An Act to regulate the settlement of the estates of deceased persons, passed May 1st, 1851, and the Acts amendatory thereof," Compiled Laws, p. 377, was laid on the table.

Assembly bill No. 153, an Act to pay E. H. Burns for services in Indian War, was taken up.

On motion of Mr. Walkup, it was recommitted to the Committee on Claims, with special instructions to amend so that the claim will be paid from the War Fund.

Senate bill No. 95, an Act to authorize the Executor or Administrator of the Estate of Josefa Soto de Stokes, deceased, to sell the real estate of said deceased at public or private sale, was, on motion of Mr. McCallum, laid on the table.

Senate bill No. 104, an Act authorizing the United States to purchase lands for public purposes, was ordered engrossed, and read a third time.

Mr. Burnett, by leave, offered the following resolution:

*Resolved,* That the Committee on Claims have the authority to employ a clerk for the period of twelve days.

Mr. Norman moved the indefinite postponement of the resolution.

The ayes and noes were demanded by Messrs. Norman, Westmoreland and Taliaferro, and taken with the following result:

#### AYES.

Messrs. Crandall, Mandeville, Melony, Norman, Walkup and Wilson—6.

#### NOES.

Messrs. Bell, Burnett, Bynum, Chase, Coffroth, Cosby, De La Guerra, Dosh,

Ferguson of Sacramento, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Johnson of El Dorado, McCallum, McGee, Mesick, Shaw, Soule, Taliaferro and Westmoreland—21.

Messrs. Ashley, Carpenter, Merritt, Sullivan and Waite were excused from voting.

So the Senate refused to indefinitely postpone.

The question recurring on the adoption of the resolution, it was put and carried.

Mr. Crandall, Chairman of the Committee on Enrollment made the following report:

*Mr. President:*

Your Committee on Enrolled Bills, have examined and found correctly enrolled, Senate Bill No. 96, an Act to grant to the Sheriff of Tuolumne county additional time to make his annual settlement for the collection of State and county taxes for the year 1856.

D. CRANDALL,  
Chairman.

Mr. Goodwin moved that the Senate adjourn in respect to the memory of George Washington; upon which, the ayes and noes were demanded by Messrs. McCallum, De La Guerra and Norman, and taken with the following result:

AYES.

Messrs. Bell, Bynum, Coffroth, Cosby, Ferguson of Sacramento, Ferguson of Sierra, Goodwin, Johnson of Sacramento, Mandeville, McGee, Mesick, Soule and Taliaferro—13.

NOES.

Messrs. Burnett, Chase, Crandall, De La Guerra, Dosh, Fiske, Johnson of El Dorado, McCallum, Melony, Norman, Shaw, Walkup, Westmoreland and Wilson—14.

So the Senate refused to adjourn.

Senate Bill No. 110, reported this morning, was taken up and again placed on the calendar.

Mr. De La Guerra, by leave, introduced a Bill entitled "An Act to amend an Act concerning evidence," passed February 5th, 1856, which was read first and second times and referred to the Judiciary Committee.

In conformity with the rules adopted by the Senate governing the impeachment of Henry Bates, the Secretary of the Senate, by order of the President pro tem., placed in the hands of the Sergeant-at-Arms of the Senate, a certified copy of the Articles of Impeachment, with a summons to the said Henry Bates to appear before the Senate on Thursday the 5th day of March, 1857, at 12 o'clock M., to answer the articles of impeachment preferred against him.



Mr. Walkup moved that the Senate adjourn in respect to the memory of George Washington; upon which, the ayes and noes were demanded by Messrs. Goodwin, Taliaferro and Westmoreland, and taken with the following result:

AYES.

Messrs. Bell, Bynum, Chase, Cosby, Crandall, Dosh, Ferguson of Sacramento, Fiske, Johnson of Sacramento, Mandeville, McCallum, McGee, Melony, Mesick, Shaw, Soule, Walkup and Wilson—18.

NOES.

Messrs. Burnett, Coffroth, Ferguson of Sierra, Johnson of El Dorado, and Taliaferro—5.

Messrs. Goodwin and Norman declined voting.

So the Senate adjourned.

Approved February 24th, 1857.

S. H. DOSH,  
President Senate pro tem.

Attest:

GEO. S. EVANS, Secretary Senate.

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IN SENATE.

TUESDAY, February 24th, 1857.

Senate met pursuant to adjournment.  
President pro tem. in the chair.  
Roll called.

Leave of absence was granted to Messrs. Soule, Sullivan, Merritt and Mesick, for the day.

Journals of yesterday read.

Mr. Norman moved to strike from the journals of yesterday that portion relative to the adjournment out of respect to the memory of George Washington.

Lost, and journals as read were approved.

Mr. Waite presented the petition of sundry citizens of Nevada, praying the repeal of the charter of the city of Nevada, which was referred to Nevada Delegation.

The Committee on Engrossed Bills made the following report:

*Mr. President:*

The Committee on Engrossed Bills, have examined Senate Bill No. 104, entitled "An Act authorizing the United States to purchase lands for public purposes," and find the same correctly engrossed.

A. R. MELONY,  
Chairman.

Mr. Bynum made the following report from the Committee on Claims:

*Mr. President:*

The Committee on Claims, have had under consideration Assembly Bill No. 118, entitled "An Act to authorize the State Treasurer to issue to Milton Wolfskill, a duplicate School Land Warrant," and respectfully recommend the passage of the same without amendment.

S. BYNUM,  
On behalf of the Committee.

Report accepted and Bill placed on calendar.

On motion of Mr. Ashley, Senate Bill No. 95, was taken from the table and placed on the calendar.

Mr. Mandeville in the Chair.

#### GENERAL FILE.

Senate Bill No. 110, an Act for the relief of Drs. H. and W. T. Gibbons, was ordered engrossed and read third time.

Senate Bill No. 104, an Act authorizing the United States to purchase lands for public purposes, was read third time and passed.

Assembly Bill No. 118, an Act to authorize the State Treasurer to issue to Milton Wolfskill a duplicate School Land Warrant, was read third time and passed.

Senate Bill No. 95, an Act to authorize the Executor or Administrator of the estate of Josefa Soto De Stokes, deceased, to sell the real estate of said deceased at public or private sale, was read third time and passed.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly, on the 21st inst., passed Senate Bill No. 56, an Act supplementary to and to amend, an Act concerning

the debt and current expenses of the county of Monterey, and to provide for the funding and payment of the same, approved April 19th, 1856.

Also, have amended Senate Bill No. 33, an Act in addition to and explanatory of, an Act for securing liens to mechanics and others, approved April 19th, 1856, and ask the concurrence of the Senate in the amendments.

Also, return corrected, Assembly message relative to Senate Bill No. 82, an Act to reduce the salary of County Judge of El Dorado county.

W. CAMPBELL,  
Clerk of Assembly.

February 24th, 1857.

Senate Bill No. 33, an Act in addition to and explanatory of, an Act for securing liens to mechanics and others, approved April 19th, 1856, was laid on the table.

Senate Bill No. 82, an Act to reduce the salary of the County Judge of El Dorado county, amendments of Assembly concurred in.

On motion of Mr. McCallum, the vote was reconsidered.

Question being on concurring in amendment of Assembly, was put and lost.

On motion of Mr. Fiske, a Committee of Free Conference was appointed by the Chair, consisting of Messrs. Fiske, Walkup and Norman, to consider the Bill.

The hour having arrived for the consideration of the special order of the day, Senate Bill No. 76, an Act to abolish the office of Director of the State Prison, was taken up, and on motion of Mr. Taliaferro, made the special order of the day for Friday next the 27th inst, at 12 o'clock M.

Mr. Crandall, Chairman of the Committee on Enrollment, made the following report:

*Mr. President:*

Your Committee on Enrolled Bills, have examined and found correctly enrolled, Senate Bill No. 63, an Act relative to the Board of Supervisors of Santa Barbara county.

D. CRANDALL,  
Chairman.

Mr. Coffroth presented the communication of Mrs. J. Neely Johnson and Mrs. E. A. Wright, and other ladies of Sacramento, asking the use of the Senate Chamber and Hall of Assembly for a social gathering on the evening of Friday, March 6, 1857, proximo, and moved a compliance with their request; upon which the ayes and noes were demanded by Messrs. Norman, Crandall and Taliaferro, and taken, with the following result:

## AYES.

Messrs. Bell, Bynum, Chase, Coffroth, Cosby, De La Guerra, Ferguson of Sacramento, Ferguson of Sierra, Goodwin, Johnson of Sacramento, Johnson of El Dorado, McCallum, McGee, Shaw, Taliaferro, Waite, Walkup—17.

## NOES.

Messrs. Ashley, Burnett, Carpenter, Crandall, Dosh, Fiske, Mandeville, Melony, Norman, Wilson—10.

Messrs. Merritt, Mesick, Soule and Sullivan were excused from voting.

So the use of the Senate Chamber was granted for the evening of Friday next, the 27th inst.

Mr. Shaw moved to take from the table Senate Bill No. 33, an Act in addition to, and explanatory of, the Act for securing liens to mechanics and others, approved April 19th, 1856.

Agreed to.

The question being on concurring in Assembly amendments, was put and lost.

Mr. Shaw moved that a Committee of free conference be appointed to consider the bill, which was adopted.

The Chair appointed as such committee, Messrs. Shaw, McCallum and Wilson.

Mr. Burnett asked and obtained leave to withdraw the papers of General Winn relative to his military services.

Mr. Taliaferro presented the following resolution :

*Resolved*, That the Special Committee that visited the Insane Asylum at Stockton be instructed to report on to-morrow.

Mr. Melony moved to amend by substituting Thursday next, which was accepted, and the resolution as amended was adopted.

Mr. Walkup moved that the usual number of Senate Bill No. 106, an Act to provide for issuing Patents to locators of Land Warrants be printed.

Agreed to.

On motion of Mr. Ashley, Senate Bill No. 7, an Act to protect from forced sale a certain portion of the Homestead and other property of all heads of families, was taken from the table and placed on the calendar.

Also, Senate Bill No. 39, an Act to amend an Act entitled an Act to regulate the settlement of the estates of deceased persons, passed May 1st, 1851, and the Acts amendatory thereto.

Agreed to.



On motion of Mr. McCallum, Senate Bill No. 54, an Act to grant the right to construct a bridge across the Sacramento River, between the city of Sacramento and the town of Washington, was taken from the table.

Mr. McCallum offered a substitute for the same, which was read first and second times.

On motion of Mr. Ferguson of Sacramento, the bill and substitute was made the special order of the day for Wednesday, the 4th of March next, at 12 o'clock, M.

Mr. Norman moved that the usual number of the substitute be ordered printed.

Lost.

On motion of Mr. Cosby, Senate bill No. 35, an Act to remunerate J. W. Denver for his services as Commissioner of the California War Debt, was taken from the table, and considered in Committee of the Whole.

After some time spent in considering the bill, the Committee rose and reported same to Senate.

In Senate.

Mr. Ashley offered the following amendment:

After "debt" insert "during the year A. D. 1856."

Lost.

Mr. Walkup moved the indefinite postponement of the bill.

Upon which the ayes and noes were demanded by Messrs. Taliaferro, Fiske and Johnson of El Dorado, and taken with the following result:

#### AYES.

Messrs. Ashley, Bell, Burnett, Carpenter, Chase, Crandall, Fiske, Goodwin, McCallum, Shaw, Waite, Walkup and Wilson—13.

#### NOES.

Messrs. Bynum, Coffroth, Cosby, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Johnson of El Dorado, Mandeville, McGee, Melony, Norman, Taliaferro and Westmoreland—13.

So the motion was lost.

Mr. McGee moved to strike out "\$5,000" and insert "\$2,500."

Mr. Coffroth moved to amend by inserting "\$1,500." A division of the question being called for, the question was taken on striking out, and carried.

The question being on inserting "\$1,500," was taken. Carried.

On motion of Mr. Shaw, the bill was laid on the table.

The following message was received from his Excellency the Governor:

STATE OF CALIFORNIA, EXECUTIVE DEPARTMENT, }  
Sacramento, Feb. 24th, 1857. }

*To the Senate of California :*

I have this day approved an Act to grant to the Sheriff of Tuolumne County additional time to make his annual settlement for the collection of State and County taxes for the year 1856.

J. NEELY JOHNSON.

On motion of Mr. Taliaferro, Assembly bill No. 75, an Act to extend an Act concerning Hogs found running at large in the Counties of Marin, Sacramento, San Francisco, Stanislaus, Alameda, Yuba and Santa Clara, approved April 21, 1856, was taken from the table, and amendments of Assembly to Senate amendments concurred in.

Mr. Waite gave notice that, on to-morrow, he will introduce a bill for an Act supplementary to an Act for securing liens to mechanics and others, passed April 19th, 1856.

Mr. Coffroth, by leave, introduced a bill for an Act to create a State police force.

Read first and second time, and referred to Committee on Public Morals.

On motion of Mr. Ashley, the Senate adjourned.

Approved February 25th, 1857.

S. H. DOSH,

President Senate *pro tem.*

Attest:

GEO. S. EVANS, Secretary of Senate

## IN SENATE.

WEDNESDAY, February 25, 1857.

Senate met pursuant to adjournment.  
 The President *pro tem.* in the Chair.  
 Roll called.

Leave of absence was granted to Mr. Ferguson, of Sacramento, for one day.

Journal of yesterday read and approved.

Mr. Mandeville in the chair.

## PETITIONS.

Mr. Dosh presented the petition of sundry citizens of Shasta County, remonstrating against the passage of the law authorizing the Board of Supervisors of Shasta County to levy a special tax for the purpose of erecting public buildings for the County, which was laid on the table.

Mr. Shaw presented the petition of sundry citizens of San Mateo County, praying the passage of the bill legalizing the election of officers of said County, which was referred to the Special Committee on San Mateo bill.

Mr. Cosby presented the petition of sundry citizens of Siskiyou County, praying the repeal of so much of section 394 of an Act entitled "an Act to regulate proceedings in civil cases in the Courts of Justice in this State," passed April 29, 1851; also so much of section 14 of a similar act, passed April 16, 1850, as relates to, and disqualifies, negroes and mulattoes from being competent witnesses in Courts of Justice in cases or proceedings to which white persons are parties, which was referred to Judiciary Committee.

Mr. Sullivan presented the petition of sundry citizens of San Francisco County, upon the same subject, which was referred to the Judiciary Committee.

Mr. Bell presented the petition of citizens of the State, praying the passage of a Sunday law, which was referred to the Committee on Public Morals.

## REPORTS OF COMMITTEES.

The following report was received from the Judiciary Committee:

*Mr. President :*

The Judiciary Committee, to whom was referred Senate bill No. 111, an Act to amend an act entitled "an Act concerning evidence," passed February 5, 1856,

have had the same under consideration, report the same back, and recommend its passage.

D. R. ASHLEY,  
Chairman.

Report accepted and bill placed on calendar.

#### INTRODUCTION OF BILLS.

Mr. Mandeville introduced a bill for an Act amendatory of and supplementary to "an Act to establish and regulate Common Schools, and to repeal former acts concerning the same," approved May 3, 1855, which was read first and second time, and referred to the Committee on Education.

Mr. Waite introduced a bill for an Act supplementary to "an Act for securing liens to mechanics and others," passed April 19th, 1856, which was read first and second time, and referred to Judiciary Committee.

#### NOTICES.

Mr. Walkup gave notice that on to morrow he will introduce a bill for an Act concerning County Treasurers, passed March 27, 1856.

#### GENERAL FILE.

Senate bill No. 39, an Act to amend an act entitled "an Act to regulate the settlement of the estates of deceased persons," passed May 1. 1851, and the acts amendatory thereof—Compiled Laws, p. 377, was placed at foot of calendar.

Senate bill No. 7, an Act to protect from forced sale a certain portion of the homestead and other property of heads of families, together with the substitute introduced by the Judiciary Committee—substitute read first and second time.

Mr. Ashley moved to strike out all after the enacting clause in the original bill.

Carried.

Mr. Bell moved to lay on the table.

Lost.

Question on the adoption of the substitute was taken and carried.

Bill considered in Committee of the Whole, and reported to Senate without amendments.

In Senate.

Bill ordered engrossed and read a third time.



Senate bill No. 111, an Act to amend an act entitled "an Act concerning evidence," passed February 5, 1856, was considered as in Committee of the Whole.

Reported without amendments.

In Senate.

Shall the bill be engrossed and read a third time ?

On motion of Mr. Ashley, the bill was considered engrossed, and read third time.

Question on the passage of the bill, upon which the ayes and noes were called by Messrs. Melony, Burnett and Norman, and taken with the following result:

#### AYES.

Messrs. Ashley, Bell, Bynum, Carpenter, Chase, Coffroth, Crandall, De La Guerra, Dosh, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Johnson of El Dorado, McCallum, McGee, Norman, Shaw, Soule, Sullivan, Taliaferro, Waite, Walkup, Westmoreland and Wilson—25.

#### NOES.

Messrs. Burnett, Melony and Mandeville—3.

So the bill passed.

The following report was received from the Enrolling Committee:

*Mr. President :*

Your Committee on Enrollment have examined an Act making appropriations to defray the civil expenses of the Government from the 1st of February, 1857, to the 30th of June, 1857, inclusive, and find it correctly enrolled.

D. CRANDALL,  
J. W. COFFROTH.

Mr. Coffroth made the following report:

*Mr. President :*

The undersigned, from the Special Committee to whom was referred an Act to legalize the present indebtedness of the State of California, and to provide for its payment, report the same back and recommend its passage.

JAS. W. COFFROTH,  
Chairman.  
E. L. SULLIVAN.

Report accepted.

Mr. McCallum presented the following majority report on the same Bill:

*Mr. President:*

The undersigned a majority of the Select Committee of nine, to whom was referred a Bill entitled "An Act to legalize the present indebtedness of the State of California, and to provide for its payment," have considered the same and recommend its indefinite postponement.

J. G. McCALLUM  
J. W. MANDEVILLE,  
JOS. WALKUP,  
WM. J. SHAW,  
D. R. ASHLEY,  
Of the Committee.

Report accepted.

On motion of Mr. Coffroth, the Bill was made the special order of the day for Wednesday, March 4th, 1857, at 12 o'clock M.

#### SPECIAL ORDER.

Senate Bill No. 32, an Act to provide for the working of mines or minerals, found in lands lying or being within the grants heretofore made by the Crown of Spain or the Supreme government of Mexico, to private persons, prior to the treaty of Guadalupe Hidalgo, was considered in Committee of the Whole.

Mr. Walkup in the Chair.

In Senate, during the pendency of the Bill, the door-keeper announced a Committee from the Assembly.

The Committee appeared within the bar of the Senate, and through their Chairman, Mr Hall, announced that the Assembly had instructed them to inform the Senate that the Assembly had preferred the following Articles of Impeachment against G. W. Whitman, Controller of State, which were placed in possession of the Senate by the Chairman of the Committee:

#### ARTICLES OF IMPEACHMENT PREFERRED BY THE ASSEMBLY AGAINST G. W. WHITMAN, TREASURER OF STATE.

*ARTICLES exhibited by the Assembly of the State of California, at the Eighth Session thereof, in the name of themselves and of the people of the State of California, against G. W. Whitman, Controller of the said State, in maintenance and support of their Impeachment of him for Misdemeanor in Office.*

ARTICLE 1. That G. W. Whitman, Controller of the State of California, in the month of May in the year 1856, at said State, unmindful of the high trust and confidence reposed in him by the people of said State, wilfully and knowingly, by color of his office, without authority of law, and contrary to the thirteenth

Section of an Act entitled "An Act concerning the office of Controller," passed January 19th, 1850, did then and there give to one W. S. Hughson and others, then and there being clerks in said Controller's office, and in the employ of the said State, certain instructions, to the effect and in substance that he, the said Hughson, or they, the said clerks, should not give to the Board of Examiners appointed by an Act to provide for the better protection of the State Treasury, approved April 16th, 1856, any assistance in making the examination of his (said Controller's) books, required by said last mentioned act, nor should he, the said Hughson, nor they, the said other clerks, furnish to said Board of Examiners the information sought and required by the examination aforesaid, and the said G. W. Whitman did then and there, in a manner not authorized by law, wilfully and knowingly threaten him, the said Hughson, and them, the said other clerks, that should he or they disregard his said instructions, he, the said Whitman, would discharge him, the said Hughson, or them, the said other clerks, from said Controller's office.

And the said G. W. Whitman, Controller of State, whilst acting as such officer, both before and after the passage and approval of an Act to provide for the better protection of the State Treasury, approved April 16th, 1856, avowed and declared that he, as Controller of State, would wholly disregard said last mentioned act, by offering violence to said Board of Examiners whenever they should attempt the discharge of their duties relative to his office under said act, and by otherwise obstructing said Board of Examiners, would render said act inoperative.

By reason of which said instructions and threats given and made as aforesaid by said G. W. Whitman to the said W. S. Hughson and other clerks in said Controller's office, and their obedience to said instructions, as well as by reason of the threats to said Board of Examiners, and other obstructions made by said G. W. Whitman to the discharge of their duties by said Board of Examiners, under the provisions of said last mentioned act, the object of counting the money in the State Treasury by said Board of Examiners as required by said act, was wholly defeated, and the other duties imposed upon said Board of Examiners by said act, greatly delayed and hindered.

ART 2d. That the said G. W. Whitman, Controller of the State of California, unmindful that he held his position under the Constitution of this State, and liable thereto by impeachment and removal from office, at said State, wilfully neglected and wholly failed to furnish information in writing upon subjects relating to the duties of the office of Controller of State to the Executive, J. Neely Johnson, Governor of said State, as required by written communication addressed to him, the said G. W. Whitman, by said J. Neely Johnson, Governor of said State, in the month of May, in the year 1856, whereby the said G. W. Whitman, Controller of State, did wilfully and knowingly violate Section 6th of Article 5th of the Constitution of the State of California, and is guilty of a misdemeanor in office therefor.

Specification 1st. The said G. W. Whitman, Controller of State, wilfully neglected and wholly failed to furnish information to the Governor of said State upon subjects relating to the duties of his said office, to-wit: The amount of Controller's warrants drawn upon the different appropriations in the State Treasury for the year 1856, the amounts remaining in said appropriations upon which no Controller's warrants were drawn in said year, and also, so far as could be shown by said Controller's books, the amount in the different funds in the vaults of the State Treasury, which said information was required by said J.

Neely Johnson, Governor of the State of California, by communication addressed to the said Controller, and dated on or about the 14th of May, 1856, which said communication is lost or mislaid.

Specification 2d. The said G. W. Whitman, Controller of the State of California, wilfully neglected and wholly failed to furnish to the Governor of State information upon subjects relating to the duties of his said office, in response to a communication addressed to him, the said Controller, by said Governor of California, in the words and figures following, to wit:

EXECUTIVE DEPARTMENT, }  
Sacramento, Cal., May 28, 1856 }

Col. G. W. WHITMAN, *Controller of State,*

*Or his Deputies or persons in charge of Controller's Office :*

I desire the following information to be furnished me from the books of the Controller's office of this State:

1st. A statement of the amount of Controller's warrants which have been drawn in detail, and in whose favor, on each separate fund and appropriation made, with the dates thereof from the 1st day of January, 1856, to the 16th day of April, 1856, inclusive.

2d. A statement similar to the above from the 16th day of April, 1856, to the 28th day of May, 1856, inclusive.

3d. A statement of the amounts of money in the State Treasury in the several different funds, separately stated, at the present date, as shown by the books of the Controller's office.

4th. A statement of the balance remaining undrawn by Controller's warrants in the several different appropriations made by the Legislature of 1856, and the same furnished to me by 2 o'clock to-morrow.

Very respectfully, your obedient servant,

(Signed)

J. NEELY JOHNSON.

ART. 3. That G. W. Whitman, whilst acting as Controller of State, of the State of California, on divers days and times, to wit: between the 16th day of April, A. D. 1856, and the 31st day of January, A. D. 1857, by color of his office, without authority of law, and contrary to the express provisions of an Act entitled "An Act to provide for the better protection of the State Treasury," approved April 16th, 1856, did draw certain warrants on the State Treasurer of the State for certain sums (not being for the salaries of officers) of money therein expressed, amounting in the aggregate to the sum of \$100,000, in favor of one J. M. Estell, Lessee of the State Prison, or his agents, purporting to be for dues under the State Prison contract, without the claim or demand upon which said warrants were drawn having been first presented to the Board of Examiners appointed by "An Act for the better protection of the State Treasury," approved April 16th, 1856, and without having indorsed thereon the previous approval of said Board of Examiners, as required by the express provisions of said last mentioned Act, whereby said G. W. Whitman, Controller of State, is guilty of a misdemeanor in office.



Specification 1st. May 3d, 1856, he drew warrant No. 3,620 for the sum of \$10,000 to J. M. Estell, Lessee of State Prison, from April 26th to May 26th, 1856.

Specification 2d. May 31st, 1856, he drew warrant No. 3,751 for \$10,000 to J. M. Estell, as Lessee of State Prison, from May 26th to June 26th, 1856.

Specification 3d. June 30th, 1856, he drew warrant No. 3,823 for \$10,000 to J. M. Estell, as Lessee of State Prison, from June 26th to July 26th, 1856.

Specification 4th. July 31st, 1856, he drew warrants Nos. 111 to 114, inclusive, for the aggregate sum of \$10,000 to J. M. Estell, as Lessee of State Prison, E. A. Rowe, Agent, from July 26th to August 26th, 1856.

Specification 5th. September 4th, 1856, he drew warrants Nos. 256 to 289, inclusive, for the aggregate sum of \$10,000 to J. M. Estell, as Lessee of State Prison, from August 26th to September 26th, 1856.

Specification 6th. September 30th, 1856, he drew warrants Nos. 463 to 492, inclusive, for the aggregate sum of \$10,000 to J. M. Estell, as Lessee of State Prison, from September 26th to October 26th, 1856.

Specification 7th. November 1st, 1856, he drew warrants No 625 to 659, for the aggregate sum of \$10,000 to J. M. Estell, as Lessee of State Prison, B. F. Hastings, Agent, from October 26th to November 26th, 1856.

Specification 8th. December 1st, 1856, he drew warrants Nos. 800 to 949 inclusive, for the aggregate sum of \$10,000, to J. M. Estell, as Lessee of State Prison, Sev. E. Boran, agent, from November 26th to December 26th, 1856.

Specification 9th. January 3d, 1857, he drew warrants Nos. 1,174 to 1,189 inclusive, for the aggregate sum of \$10,000, \$4,000 to said J. M. Estell, and (G. Patch, agent,) \$6,000 as Lessee of State Prison, from December 26th, 1856, to January 26th, 1857.

Specification 10th. January 31st, 1857, he drew warrant No. 2,020, for the sum of \$10,000, to J. M. Estell, as Lessee of State Prison, W. G. English, agent, from January 26th to February 26th, 1857.

ART. 4. That said G. W. Whitman, Controller of State, at the State of California, on the 1st day of April, in the year 1856, by color of his office, and without authority of law, and contrary to the express provisions of the statute in such cases made and provided, wilfully and knowingly did draw his certain Controller's warrants Nos. 2,581 to 2,590 inclusive, on the Treasury of the State, for the aggregate sum of \$10,000, in favor of J. M. Estell, Lessee of the State Prison, from March 26th to April 26th, 1856, in violation of the provisions of an "Act creating a Board of State Prison Commissioners, and defining their duties," approved March 21st, 1856, when in truth and in fact but about the sum of \$1,000 was due and payable to said J. M. Estell, State Prison Lessee, under contract entered into by him on the 26th of March, 1856, with

the Commissioners appointed by the last mentioned Act, whereby said G. W. Whitman, Controller of State, has wilfully and knowingly violated section 13th of an "Act concerning the office of Controller," passed January 19th, 1850, and is guilty of a misdemeanor in office therefor.

ART. 5. And the said G. W. Whitman, Controller of State, at divers times in the year 1856, by color of his office, wilfully and knowingly, without the authority of law, and against the express provisions of the statute in such case made and provided, and contriving and intending to cheat and defraud the Treasury of the State of California, and combining with one W. S. Hughson, a clerk in his said office, and one E. A. Rowe and others to this Assembly unknown, for that purpose did, by himself and by and through his said clerk, W. S. Hughson, authorize the Treasurer of State to receive of and from the Treasurers of the counties of San Francisco, Amador, Yolo, El Dorado, Sierra, Sacramento, and Yuba, large amounts of State warrants substituted in the place and stead of large amounts of money and bullion actually collected for the State and received by the Treasurers of said counties, and the said Treasurer of State, so being authorized by said G. W. Whitman, Controller of State, did receive said large amounts of State warrants in the place and stead of the money collected and intended to be paid over by the Treasurers of the counties aforesaid.

Specification 1st. On or about the 24th day of July, 1856, he authorized to be received of and from the Treasurer of the county of Amador, the sum of \$10,467 79, in State warrants, instead of that sum sought to be paid in by the said County Treasurer in cash and bullion, and said State warrants were so received by said State Treasurer as cash.

Specification 2d: On or about the 1st day of July, 1856, he authorized to be received of and from the Treasurer of the county of San Francisco the sum of \$12,477 22, and on or about the 30th day of October in the same year he authorized to be received of and from the said Treasurer of said county of San Francisco, \$15,113 52, in State warrants, instead of these several sums sought to be paid in by said County Treasurer in cash and bullion, and said several sums in State warrants were so received by said State Treasurer as cash.

Specification 3d. On or about the 31st day of July, 1856, he authorized to be received of and from the Treasurer of the county of Yolo, \$300 in State warrants, instead of that sum in cash and bullion sought and intended to be paid in by said County Treasurer, and said amount in State warrants was so received by the State Treasurer as cash.

Specification 4th. On or about the 9th day of August, 1856, he authorized to be received of and from the Treasurer of the County of Sierra \$2,000 in State Warrants instead of that sum in cash and bullion sought and intended to be paid in by the said County Treasurer, and said amount in State Warrants was so received by the State Treasurer as cash.

Specification 5th. On or about the 18th day of November, 1856, he authorized to be received of and from David Maddux, Treasurer of the County of Sacramento, \$17,005 20 in State Warrants, and on or about the 6th day of December, in the same year, he authorized to be received of and from the same officer \$10,634 64

in State Warrants in the place and stead of cash and bullion collected for the State by said County Treasurer, and said several amounts in State Warrants were so received by the State Treasurer as cash.

Specification 6th. On or about the 24th day of December, 1856, he authorized to be received of and from the County Treasurer of Yuba County \$10,852 50 in State Warrants in the place and stead of that sum in cash and bullion, collected by said County Treasurer for the State, and said amount in State Warrants was so received by the State Treasurer as cash.

ART 6th. That said G. W. Whitman, whilst acting as Controller of the State of California during the year 1856, unmindful of the solemn duties of his office, did so wilfully neglect and carelessly attend to the duties of his said office as to allow and permit one W. S. Hughson, a clerk in his said office, to use the office of the Controller of State and the name of him said G. W. Whitman, as such Controller, and his said Hughson's position as clerk in said office in combination with one E. A. Rowe and others, to this Assembly unknown, to purchase to the use of them the said Hughson and Rowe and others, large amounts of the State Warrants and other evidences of State indebtedness, and by means of authorizations in the name of him said Whitman, issued out of the said Controller's office by said W. S. Hughson to the State Treasurer, did permit and allow said Hughson and Rowe and others, at the time and in the manner specified and set forth in the specifications to article fifth hereof, to substitute said State Warrants and other evidences of State indebtedness in the Treasury of State for cash contrary to express provisions of the statute in such case made and provided. Whereby said G. W. Whitman, Controller of State, is guilty of a misdemeanor in office.

ART. 7th. The said G. W. Whitman, Controller of the State of California, whilst acting as such officer of said State, on or about the 6th day of December, A. D. 1856, wilfully and knowingly, and without authority of law and contrary to the 13th section of "an Act concerning the office of Controller of State," passed January 19th, 1850, by color of his office, accepted an order drawn on him as such officer by J. M. Estell, which said order and acceptance is in the words and figures following, to wit:

Hon. G. W. WHITMAN, *Controller of State*:

You will please pay to the order of "Wm. Norris, Secretary," ten thousand dollars Controller's warrants, to which I am entitled as Lessee of the State Prison, for the month of March next.

SAN FRANCISCO, December 6th, 1856.

J. M. ESTELL,

Lessee State Prison, California.

Accepted.

(Signed)

G. W. WHITMAN.

Controller of State.

Whereby said G. W. Whitman is guilty of a misdemeanor in office under the 13th section of an Act concerning the office of Controller, passed January 19th, 1850.

The said Assembly of the State of California, at their eighth session, do present to the Senate of California these, their Articles of Impeachment and specifications, against G. W. Whitman, Controller of State, charging said Whitman with misdemeanors in office; and reserving to themselves the right at any time hereafter to exhibit other and further articles and specifications against said G. W. Whitman, Controller of State, do ask that the Senate do take order therefor, and do proceed to the trial of said G. W. Whitman, Controller of State upon the articles and specifications herewith presented.

Original Articles of Impeachment against G. W. Whitman, Controller of State, adopted in the Assembly of the State of California, at the eighth session thereof, on the 24th day of February, A. D. 1857.

E. T. BEATTY,

Speaker of the Assembly.

W. CAMPBELL,

Clerk of the Assembly.

Whereupon the Chair announced to the Committee that the Senate would, in accordance with a resolution adopted by the Senate, take order and in due time inform the Assembly thereof, whereupon the Assembly Committee withdrew from the Chamber.

In Committee of the Whole—After some time spent in debate, on motion of Mr. Mandeville, the Committee rose and reported the bill to the Senate without amendments.

In Senate—Mr. Norman moved the indefinite postponement of the bill, upon which the ayes and noes were demanded by Messrs. Mandeville, Merritt and Carpenter, and taken with the following result :

#### AYES.

Messrs. Ashley, Bell, Burnett, Bynum, Carpenter, Chase, Coffroth, Crandall, De La Guerra, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Johnson of El Dorado, McCallum, Mandeville, Merritt, Norman, Soule, Sullivan, Taliaferro, Waite, Walkup and Wilson—25.

#### NOES.

Messrs. Cosby, Dosh, McGee, Melony and Westmoreland—5.

Mr. Shaw declined voting.

So the bill was indefinitely postponed.

Mr. Mandeville offered the following resolutions :

*Resolved*, That the Senate of the State of California will, on Monday, the 9th day of March next, at 12 o'clock, M., meet as a high Court of Impeachment, for the purpose of trying G. W. Whitman, Controller of State.



*Resolved*, That the Secretary of the Senate notify the Assembly, G. W. Whitman, and the Attorney General of the State, accordingly.

Adopted.

The following message was received from his Excellency the Governor :

EXECUTIVE DEPARTMENT, }  
Sacramento, February 25, 1857. }

*To the Senate of California:*

I hereby nominate and appoint Edward F. Burton, Controller of State, *vice* George W. Whitman, against whom Articles of Impeachment have been presented, and respectfully ask the concurrence of your honorable body.

J. NEELY JOHNSON.

Mr. McCallum moved that the Senate confirm the appointment of Edward F. Burton as Controller of State.

Mr. Chase moved to lay the message upon the table.

The ayes and noes were demanded by Messrs. Coffroth, Carpenter and Fiske, with the following result :

AYES.

Messrs. Burnett, Bynum, Chase, Coffroth, Cosby, De La Guerra, Dosh, Ferguson of Sierra, Goodwin, Johnson of El Dorado, Taliaferro and Westmoreland—12.

NOES.

Messrs. Ashley, Bell, Carpenter, Crandall, Ferguson of Sacramento, Fiske, Johnson of Sacramento, Mandeville, McCallum, McGee, Melony, Norman, Shaw, Soule, Sullivan, Waite, Walkup and Wilson—18.

So the motion was lost.

Mr. Taliaferro moved to refer the message to the Judiciary Committee.

Mr. Coffroth moved to amend with instructions to report to-morrow.

Accepted.

Question on reference was taken and lost.

Question being on confirming the appointment of Edward F. Burton, Controller of State, was taken with the following result:-

AYES.

Messrs. Ashley, Bell, Burnett, Bynum, Carpenter, Cosby, Crandall, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Johnson of Sacramento, Mande-

ville, McCallum, McGee, Melony, Merritt, Norman, Shaw, Soule, Sullivan, Taliaferro, Waite, Walkup, Westmoreland and Wilson—25.

Messrs. Chase, Coffroth, De La Guerra, and Goodwin declined voting.

So the appointment was unanimously confirmed.

By unanimous vote of the Senate, the vote upon the final passage of Senate bill No. 63, an Act relating to the Board of Supervisors of Santa Barbara County, was reconsidered, and the engrossed bill placed on its second reading, and on motion of Mr. Mandeville, referred to the Delegation from Santa Barbara.

Mr. Crandall, Chairman of the Enrolling Committee, made the following report :

*Mr. President:*

Your Committee on Enrolled Bills have presented to the Governor an Act making Appropriations to defray the civil Expenses of the Government from the first of February, 1857, to the thirtieth of June, 1857, inclusive.

D. CRANDALL,  
Chairman.

By order of the President of the Senate, the Secretary issued subpoenas for the witnesses on the part of the State, as per list of the Assembly Committee in the case of the impeachment of Henry Bates, which were placed in the hands of the Sergeant-at-Arms for service.

On motion of Mr. Mandeville, the Senate adjourned.

Approved February 26th, 1857.

R. M. ANDERSON,  
President Senate.

Attest :

GEO. S. EVANS, Secretary Senate.

## IN SENATE.

THURSDAY, February 26th, 1857.

Senate met pursuant to adjournment.  
 President in the chair.  
 Roll called.  
 Messrs. Walkup and Mesick were absent.  
 Journals of yesterday read and approved.

Mr. Carpenter presented the remonstrance of sundry citizens of El Dorado county against the removal of the county seat from Coloma to Placerville, which was laid on the table.

Mr. Bell presented the petition of sundry citizens of the State, praying the passage of a Sunday law, which was referred to the Committee on Public Morals.

Mr. Goodwin presented the petition of sundry citizens of Yuba county, praying the repeal of so much of third paragraph of section 394 of an Act to regulate proceedings in civil cases in the Courts of Justice in this State, passed April 29, 1851, as relates to negroes.

Also, to repeal so much of section 14 of an Act entitled an Act concerning crimes and punishments, passed April 16th, 1850, as relates to negroes and mulattoes, viz : to repeal those provisions of the law which disqualifies negroes and mulattoes from being competent witnesses in the Courts of Justice in cases or proceedings to which white persons are parties, which was referred to the Judiciary Committee.

The Committee on Claims made the following report :

*Mr. President :*

The Committee on Claims, to whom have been referred the numerous claims hereinafter enumerated, respectfully report : That they find many of these claims correct and valid, but they cannot agree to recommend any appropriations for their payment, for the following reasons : The Supreme Court of this State has lately reiterated a decision that the Legislature is acting in violation of the Constitution, in making appropriations of money for any purpose whatever, inasmuch as the indebtedness of this State already exceeds the amount limited in the 8th article of the Constitution. And that Court has, at last, openly avowed its right and its willingness to restrain the collection of any taxes to pay the interest on the principal of any debt against this State, exceeding the said sum. The said 8th article says, the *Legislature* shall not create any debt exceeding \$300,000, except for some single object, or work, &c. But the Supreme Court has gone to the full extent of deciding that all the debts of this State exceeding the limit in the 8th article, whether created by the Legislature or not, and whether for the absolute expenses of the government or not, are null and void,

and that the Legislature has no right to make appropriations to meet the same, or any part thereof.

The language of that Court is so plain and explicit that it is impossible to misunderstand it. It says: In the case of the *People vs. Johnson*, this Court stated as a corollary from the conclusion to which it arrived, viz: (that the wagon road bill was unconstitutional) that the public debt of the State (*i. e.* all over the sum of \$300,000, except so much thereof as was incurred by the first Legislature,) had been unconstitutionally created. And the Court further says: "To our mind, the conclusion was so inevitable that the merest tyro in the profession would at once have recognized it, and no layman possessed of moderate capacity could have failed to observe it." According to this opinion of our Supreme Court, we are expressly informed and officially notified that any debt whatsoever issued by the Legislature at the present session, will be issued in violation of the 8th article of the Constitution.

And we are further officially notified by the Supreme Court, in its own language, "that the Legislature has no power to levy a tax or appropriate money for the payment" of any State debt whatsoever, exceeding the sum limited in the 8th article. That all such debts, without any exception, are unconstitutional, and that the Courts of this State may interfere to prevent the payment of debts, or the interest thereon, where they have been unconstitutionally contracted.

The Court which has issued this mandate, has done so as one of the co-ordinate departments of this government. However insignificant in its numbers, and dangerous and unguarded in its powers, still it is as independent and as powerful without its own legitimate and constitutional sphere, as though its numbers were as numerous as those assembled in both Houses of the Legislature. If it has decided in violation of law, it is the duty of the Legislature to impeach its members and remove them from office. If it has decided in obedience to law, it is the duty of this Legislature to immediately abandon its sessions, and for its members to return to their homes and inform their constituents that they have a government so constituted that it has peaceably put an end to its own existence. For if the Court be correct, then this government is necessarily at an end, because no government can by any possibility exist when its right to appropriate money has wholly ceased.

If the Court be correct, it follows as a corollary from the argument (more self-evident than they are drawn by the Court in its opinion) that the members of this Legislature have no longer any right to remain in their seats, for by that act alone they are continually creating a debt against the State exceeding the amount mentioned and limited in the 8th article of the Constitution. And not only the Legislature, but the Supreme Court Justices also, are bound to abandon their places, for they are creating debts against this State by continuing longer in office at the expense of the State. It is true that some degree of common sense might teach "the merest tyro" that the Legislature does not create all, nor, indeed, any of the debts absolutely necessary for carrying on the government. But that such debts are created by the very existence of the government itself, and that the Legislature, so far from creating them or causing them to exist at all, merely provides for their payment. And, also, that so far from the 8th article of our Constitution applying to debts so created, it applies only, and in express terms, to debts created by the Legislature. It does not say that no debts shall exist, nor that no debts shall in any manner accrue or be created, exceeding only \$300,000.

But it says that "the Legislature" shall not create any such debts. It might be further said that a considerable portion of the debt which the Supreme Court has decided to be unconstitutional and void, was for the pay of the mem-



bers of that Court, when they used to receive more than twenty-seven dollars a day for every day in the year, and for many years at the same rate. And that all the debts were not created by the Legislature within the 8th Article, but by the very creation and existence of that department of the Government. It was no more created by the Legislature than it was by the Governor or the Court itself. The Constitution authorized just such a Court to exist, and expressly commanded and required the Legislature to fix the salaries of its three officers. That Court will not pretend but that what the Legislature did concerning it was constitutional.

But the condition of the country, the weakness and unpopularity of the government, and defects in the Constitution itself, having rendered it impossible to collect sufficient revenue to pay their salaries, and the bonds or warrants for the same having been funded by the Justices themselves, or sold by them to innocent purchasers for value received, we now hear for the first time that the laws authorizing the payment of their salaries, or authorizing the payment of the interest on the funded debt created to pay them, are unconstitutional and void. And, of course, the same thing must be true of all the other salaries created by the Constitution itself. The great and renowned Dr. Lieber, the most learned and able writer on hermeneutics of this or any former age, declares that the controlling rule to be applied in construing a Constitution, is "GOOD FAITH AND COMMON SENSE." Whether this rule was thought of by our Supreme Court in their recent constructions of the eighth Article of our Constitution, may possibly admit of some dispute.

But whether that decision of our Court be right or wrong, it would neither become us, as members of this government, nor as citizens of this country, to treat it with contempt and indifference. And besides, any attempt on our part to do so might produce no practical advantage to the country, because we are duly informed, by the Court itself, that it may interfere to prevent the payment of debts which we may order to be paid. That the Supreme Court, composed of only three men, is a far higher power than the Legislature and the Executive combined, seems to be rendered clear and self-evident by the showing of the Court itself. And since this is shown to be the case, your Committee respectfully report back the claims now pending before them, indicating, in connection with each, those which they believe to be just, and those which ought not, in their opinion, to be allowed, and recommend that no appropriations be made for the payment of any of them, provided the late constitutional decisions of the Supreme Court be correct.

WM. J. SHAW,  
Chairman.

An Act for the relief of H. M. Fearing for \$700 for removing and fitting up a wooden building in the Insane Asylum grounds, and also for relief of Frank E. Conovan for \$1,200 for services as architect of the wing to the Insane Asylum. The Committee report that these claims are just and proper, and that they ought to be paid.

Claim of J. D. Potter for \$260, for copying journals of the Senate for 1856, is also approved as just and valid.

Claim of Leandro Rawson, Chief Clerk in United States Surveyor General's office of California, for \$2,030, for plats of surveys furnished the State under a law passed in 1855. The original amount of this claim is \$567, the balance being for

losses on State Scrip. The Committee allow the original claim of \$567 to be a just and legal debt against the State.

Claim of Baker & Swinerton for the stove and pipe and other articles therewith now in use in the Senate Chamber, amounting in all to \$256 60. The Committee approve and report in favor thereof to the amount of \$132 60.

Claim of the County of Sacramento for \$707 30 for the same amount paid for surveying the boundary line between the counties of Sacramento and El Dorado. The Committee refuse to allow this claim, and have not found it to be a valid debt against the State.

Claim of ————— for \$137 for materials furnished the State Marine Hospital in 1855. The Committee refuse to approve of this claim, and report against its allowance.

Claim of H. P. Lopdell for \$9 50 for fixing chairs. The Committee refuse to allow this as a claim which the State ought to pay.

An Act to compensate the Sisters of Mercy for taking care of and maintaining the sick of the State in San Francisco, from October, 1855, to February, 1857. The Committee find that the claim on which this act is founded was referred to be examined, acted upon and reported back, by one of the standing committees of the Senate and therefore they report the same back without further recommendation.

Claim of Rivett & Co. for articles furnished, for labor and materials in fitting up the Chambers of Senate and Assembly, amounting to \$175 90. The Committee allow the same to be a valid and just claim against the State.

Claim of Greenebaum & Bucki for \$60 for water pitchers and other articles for the use of the Senate in 1856. The Committee allow the same to be a just and valid claim against the State.

An Act for the relief of James Penny for services as Porter of the Supreme Court from the 1st to the 24th December, 1856, \$96. This claim is approved by Justices Murray and Terry as correct. The Committee recommend that the same be indefinitely postponed, as a contingent fund of \$6,000 was allowed the Supreme Court for the payment of such expenses for the year 1856, which with proper management must have been amply sufficient to meet all such expenses.

An Act appropriating \$500 for relief of James Terrick for the arrest of escaped State Prison convicts. The Committee recommend that the same be indefinitely postponed.

An Act to pay \$1,200 for additional compensation to A. J. F. Phelan for services as Clerk of the Commissioners of the War Debt. The Committee recommend that it be indefinitely postponed, although justice would seem to favor an allowance to Mr. Phelan of some amount.

Claim of the Placerville American for publishing Governor's Proclamation in October, 1856, amounting to \$48. The Committee report the same to be a just claim against the State.

Claim of citizens of Drytown of \$1,000 for remuneration for a wanton destruction of the Catholic Church at that place. The Committee cannot agree that this claim, however just in itself, is a valid debt against the State, and therefore recommend that it be not allowed.

An Act authorizing the Board of Supervisors of Alameda County to grant relief to Francis R. Crussell. The Committee recommend that the bill be passed if the Committee of that County desire it, after amending the same as follows: After the word "authorized," in 2d line, "if they deem it proper."

In addition to the foregoing, there are claims before the Committee amounting to some \$250,000 for building the State Prison wall, and supplying articles to the Prison and food for the prisoners, from June, 1855, to January, 1856, whether any, and if any, what amount of said claims are valid, the Committee have not yet determined. The whole matter is in the hands of a sub-committee of the Committee on Claims, and has not yet been reported back for action of the whole Committee.

WM. J. SHAW,  
Chairman.

Report accepted.

During the discussion upon the report, Mr. Carpenter called for the special order of the day.

#### SPECIAL ORDER OF THE DAY.

Senate Bill No. 1, an Act recommending to the electors to vote for or against a Convention to revise and change the Constitution of this State, on motion of Mr. Mandeville, was made the special order of the day for Thursday, March 19th, 1857, at 12 o'clock M.

Assembly Bill No. 52, an Act to establish the county seat of El Dorado county, special order of the day, was considered.

Mr. Carpenter offered a substitute for the Bill which was read first time.

In Committee of the Whole, Mr. Merritt in the Chair.

President in the Chair.

On motion of Mr. Fiske, the Committee rose and reported the Bill and substitute, without amendments.

In Senate—Mr. Carpenter moved the adoption of the substitute; upon which, the ayes and noes were demanded by Messrs. Carpenter, Fiske and Johnson of El Dorado, and taken with the following result:

#### AYES.

Messrs. Ashley, Carpenter, Ferguson of Sierra, Mandeville, McCallum, Melony, Norman, Waite and Wilson—9.

## NOES.

Messrs. Bell, Burnett, Bynum, Chase, Coffroth, Cosby, Dosh, Ferguson of Sacramento, Fiske, Johnson of Sacramento, Johnson of El Dorado, McGee, Merritt, Shaw, Soule, Sullivan, Taliaferro and Westmoreland—18.

Mr. Goodwin declined voting.

So the Senate refused to adopt the substitute.

Question being on final passage of the bill; upon which, the ayes and noes were demanded by Messrs. Mandeville, Merritt and Cosby, and taken with the following result:

## AYES.

Messrs. Bell, Burnett, Bynum, Chase, Coffroth, Cosby, De La Guerra, Dosh, Ferguson of Sacramento, Fiske, Johnson of Sacramento, Johnson of El Dorado, McCallum, McGee, Merritt, Norman, Shaw, Soule, Sullivan, Taliaferro, Waite and Westmoreland—22.

## NOES.

Messrs. Ashley, Carpenter, Ferguson of Sierra, Mandeville, Melony and Wilson—6.

Mr. Goodwin declined voting.

So the bill was passed.

The Committee on Public Lands made the following report:

*Mr. President:*

The Committee on Public Lands, to whom was referred Senate Bill No. 88, a Bill to encourage science by granting to the California Academy of Natural Science, a quantity of swamp and overflowed land, report the same back, and recommend its indefinite postponement.

The Committee are of opinion that the Legislature has not the power, under the law of Congress granting the lands to the State of California, to donate them, or apply the proceeds arising from their sale, for any purpose other than their reclamation.

JAMES W. COFFROTH,

Chairman.

Report accepted and bill placed on calendar.

Mr. Merritt in the Chair.



The Committee on Public Lands made the following report:

*Mr. President:*

The Committee on Public Lands, to whom was referred an Act granting certain swamp and overflowed lands to the city of Sacramento, report the same back and recommend its passage.

The Committee have ascertained that the lands proposed to be donated, are now covered by a body of water known as Sutter Lake, and as the Bill is sufficiently guarded as to compel the city of Sacramento to reclaim lands which, it is believed, can never be reclaimed by private enterprise, this Act is respectfully presented to the most favorable consideration of the Senate.

JAMES W. COFFROTH,

Chairman

Report accepted and bill placed on calendar.

The Committee on Public Lands made the following report :

*Mr. President :*

The Committee on Public Lands, to whom was referred an Act granting to the Alameda Shell Turnpike Company certain overflowed lands in Alameda County, have had the same under consideration, and recommend its passage.

JAMES W. COFFROTH,

Chairman.

Report accepted and bill placed on calendar.

The following report was received from Mr. Fiske, Chairman of the Committee of Free Conference :

*To the President of the Senate, and Speaker of the Assembly :*

Your Committee of Free Conference, to whom was referred Senate bill No. 82, an Act to reduce the Salary of the County Judge of El Dorado County, have had the same under consideration, and would respectfully recommend the following as a substitute for section 3 of said bill :

SEC. 3 —All Acts or parts of Acts in any way inconsistent with the provisions of this Act are hereby repealed, so far as the same may be applicable to El Dorado County.

HENRY M. FISKE,

Chairman of Senate Committee.

J. HUME,

Chairman of Assembly Committee.

Report accepted.

On motion of Mr. McCallum, the Senate adopted the amendments of the Committee of Free Conference.

The Committee of Free Conference, to whom was referred Senate bill No. 33, made the following report :

*Mr. President:*

The Committee of Free Conference, to whom was referred Senate bill No. 33, an Act in addition to and explanatory of an Act for securing Liens to Mechanics and others, approved April 19th, 1856, report the same back, and recommend to amend the Assembly proviso as follows : after the word "that," in first line of proviso, add as follows : "in order to obtain a preference over a mortgage or other conveyance ;" and that the bill so amended be passed.

J. C. BURCH,  
R. C. CLARK,  
URIAH EDWARDS,  
B. D. WILSON,  
W. J. SHAW.

Report accepted. and on motion of Mr. Shaw, amendments of the Committee of Free Conference adopted.

Mr. De La Guerra, to whom was referred Senate bill No. 63, an Act relative to the Board of Supervisors of Santa Barbara County," made the following report:

*Mr. President:*

The undersigned, to whom was referred Senate bill No. 63, report the same back with the following amendment, and recommends its passage.

DE LA GUERRA,  
Santa Barbara Delegation.

Amend section 1st as follows :

Section 1. The Supervisors of the County of Santa Barbara shall have power to order, in their discretion, the publication or printing, either in a newspaper or otherwise, of all such matters required by law to be ordered published by them.

Report accepted.

On motion of Mr. Coffroth, the amendment of the Committee was adopted, bill read a third time and passed.

The following report was made by Mr. Cosby :

*Mr. President:*

Your Committee, to whom was referred Assembly bill No. 152, entitled an Act to amend "an Act to incorporate Crescent City," passed April 13th, 1854, have had the same under consideration, and beg leave to report it back without amendment, and recommend its passage.

J. D. COSBY,  
Of Committee.

Report accepted and bill placed on calendar.

By unanimous consent, Mr. Goodwin presented the petition of Anna Sutter, wife of General John A. Sutter, praying relief from the payment of taxes for the years 1856 and 1857, on certain lands, which was referred to the Finance Committee.

Mr. Crandall, by leave, presented the petition of sundry citizens of Amador County, praying the repeal of so much of the third paragraph of section 394 as relates to negroes; also so much of section 14 of an Act entitled "an Act concerning crimes and punishments," passed April 16th, 1850, as relates to negroes and mulattoes, viz: Those provisions of the law which disqualifies negroes and mulattoes from being competent witnesses in the Courts of Justice in cases or proceedings to which white persons are parties, which was referred to the Judiciary Committee:

The following message was received from the Assembly:

*Mr. President :*

I am directed to inform the Senate that the Assembly on yesterday adopted Senate concurrent resolution adding the Chairman of the Committee of Free Conference on the Appropriation Bill to the Committee on Enrolled Bills.

The Assembly have appointed Messrs. Hume, Ferris and Graves, Committee of Free Conference on Senate bill No. 82, an Act to reduce the salary of the County Judge of El Dorado County.

Also, have appointed Messrs. Burch, Edwards and Clark as a Committee of Free Conference on Senate bill No 33, an Act explanatory of an Act securing liens to mechanics and others, approved April 19, 1856.

W. CAMPBELL,

Clerk of Assembly.

February 25, 1857.

The following message was received from the Assembly :

*Mr. President :*

I am directed to inform the Senate that the Assembly on yesterday passed Assembly bill No. 195, an Act concerning the collection of taxes in Yolo County.

Also, passed Assembly bill No. 147, an Act to re-incorporate San Jose.

Respectfully,

W. CAMPBELL,

Clerk Assembly

February 26, 1857.

Assembly bill No. 195 was taken up, and read first and second times.

Mr. Bynum moved that the rules be further suspended, the bill considered engrossed, and read a third time, which was lost.

On motion of Mr. Coffroth, the bill was referred to the Senator from Yolo.

Assembly bill No. 147 was read first and second times, and referred to the Committee on Corporations.

The following message was received from the Assembly:

*Mr. President :*

I am directed to inform the Senate that the Assembly on the 18th inst. passed Senate bill No. 93, an Act amendatory of "an Act to provide for the protection of foreigners, and to define their liabilities and privileges, passed March 13, 1853, passed May 13, 1854.

Also, on the 21st inst. passed Assembly bill No. 135, an Act concerning tenants in common, joint tenants and copartners.

Also, on the 20th inst., passed Assembly bill No. 55, an Act concerning the eighth, ninth and fifteenth Judicial Districts of this State, and the Judges thereof.

Respectfully,

W. CAMPBELL,  
Clerk Assembly.

February 26, 1857.

Assembly Bill No. 135, was read first and second times and referred to the Judiciary Committee.

Assembly Bill No. 55, was read first and second times and referred to the Senators from the 8th, 9th and 15th Judicial Districts.

Mr. Ferguson of Sacramento, by leave, introduced a Bill entitled "An Act to fix the time of holding the Courts of Sessions and the County Courts of Sacramento county," which was read first and second times, rules further suspended, bill considered engrossed, read a third time and passed.

Mr. Melony, Chairman of the Committee on Engrossed Bills, made the following report:

*Mr. President :*

The Committee on Engrossed Bills, beg leave to report that they have examined Senate Bill No. 110, entitled "An Act for the relief of Drs. H. and W. P. Gibbons," and find the same correctly engrossed.

A. R. MELONY,  
Chairman.

Report accepted and bill placed on calendar.

Mr. Dosh, by leave, gave notice that he will, at an early day, introduce a Bill to authorize the Board of Supervisors of Shasta county to levy a special tax.

GENERAL FILE.

Senate Bill No. 39, an Act to amend an act entitled "An Act to regulate the settlements of the estate of deceased persons," passed May 1st, 1851, and the



acts amendatory thereof, Compiled Laws, page 377, ordered placed at the foot of the calendar.

Senate Bill No. 88, a Bill to encourage science by granting to the California Academy of Natural Sciences a quantity of swamp and overflowed land, was, on motion of Mr. Burnett, indefinitely postponed.

Senate Bill No. 94, an Act granting certain swamp and overflowed lands to the city of Sacramento, was read for information, and, on motion of Mr. Ashley, the rules were suspended, bill considered engrossed, read a third time and passed.

Senate Bill No. 9, an Act granting to the Alameda County Shell Turnpike Company certain overflowed lands in Alameda county, was considered.

Mr. Goodwin moved that the rules be suspended and the bill be considered engrossed, and read a third time.

Carried.

Mr. Ashley moved that the Bill be recommitted with special instructions to amend so as to grant the land for some specific time.

Pending the motion to recommit, on motion of Mr. Norman, the Senate adjourned.

Approved February 27th, 1857.

R. M. ANDERSON,  
President Senate.

Attest:

GEO. S. EVANS, Secretary Senate

## IN SENATE.

FRIDAY, February 27, 1857.

Senate met pursuant to adjournment.

President in the chair.

Roll called.

Journals of yesterday read and approved

Mr. Walkup was granted leave of absence for an indefinite period.

Mr. Goodwin presented the following communication:

SACRAMENTO, 27th February, 1857.

HON. J. O. GOODWIN, Senate:

DEAR SIR—

I send up to the Capitol this morning a box of the little volume that I spoke to you about yesterday. It is my wish to present to each member of both branches of the Legislature, a copy of "Trade and Letters," as a small token of the author's esteem and good will for the Senators and Representatives of the people of California.

Wishing you every blessing, I have the honor to be,

Yours, very truly, etc.,

W. A. SCOTT.

Mr. Goodwin offered the following resolution:

*Resolved*, That the thanks of the Senate be unanimously tendered to the Rev. W. A. Scott, for his valuable work entitled "Trade and Letters," as well as our best wishes toward him as a man and divine.

Adopted.

Mr. Soule presented the petition of the Executrix and Executors of the last will and testament of W. D. M. Howard, deceased, together with a copy of the will, and bill for an Act relative thereto: An Act to authorize the Executrix and Executors of the last Will and Testament of William D. M. Howard, deceased, to sell Real Estate at Private Sale.

Read first and second times and referred to the Delegation from San Francisco.

Mr. Sullivan presented a bill for an Act to authorize the execution of a bond under "An Act for funding the Debt of the city of San Francisco," passed May 7th, 1855.

Read first and second times and referred to the Delegation from San Francisco.

Mr. Norman presented a bill for an Act to authorize the Board of Supervisors of Calaveras County to levy a special tax to redeem County Warrants.

Read first and second times and referred to the Delegation from Calaveras County.

Mr. Waite presented a bill for an Act to reduce the salary of the County Judge of Nevada County.

Read first and second times and referred to the Delegation from Nevada.

Mr. Waite presented a bill for an Act to separate the Office of Collector of Taxes from the Office of Sheriff, in the County of Nevada.

Read first and second times and referred to the Delegation from Nevada.

Mr. Johnson, of Sacramento, presented a bill for an Act enabling aliens to acquire and hold real property in this State.

Read first and second times and referred to the Judiciary Committee.

Mr. Westmoreland presented a bill for an Act taxing certain instruments in writing.

Read first and second times and referred to the Committee on Finance.

Mr. Merritt presented a bill for an Act to be entitled an Act to amend an Act entitled "An Act to regulate Proceedings in the Courts of Justice of this State."

Read first and second times and referred to the Judiciary Committee.

Mr. Merritt presented a bill for an Act to be entitled an Act for the relief of Insolvent Debtors and for the protection of their Creditors.

Read first and second times and referred to the Judiciary Committee.

On motion of Mr. Carpenter, the remonstrance from El Dorado County, laid on the table yesterday, was taken up and referred to the Delegation from that county.

Mr. Ashley presented the following resolution:

*Resolved*, by the Senate, (the Assembly concurring,) That a committee of three from each House be appointed to examine and select proposals for translating the Laws of 1856 and 1857 into Spanish.

Adopted.

Mr. Bell presented the following resolution:

*Resolved*, That it is the opinion of this Senate that the Supreme Court in its late decision in the case of *Nougues vs. Douglass et al.*, has not decided that the government of this State has not the power to perpetuate itself, nor that this Legislature has not the power to provide for all necessary pecuniary appropriations to carry on the same.

On motion of Mr. Norman, the resolution was laid on the table.

The Chair appointed as the Committee on the part of the Senate on Mr. Ashley's resolution, Messrs. Ashley, De La Guerra and Goodwin.

Mr. Taliaferro presented the following:

*Resolved*, That the Senate (the Assembly concurring) go into joint convention on Friday, the 6th day of March, for the purpose of electing officers to the State Insane Asylum at Stockton.

A motion was made to lay the resolution on the table, which was lost, and on motion of Mr. Ashley, the resolution was referred to the Judiciary Committee with instructions to report as soon as possible.

On motion of Mr. Ashley, the following message from the Assembly was taken up:

Mr. McCallum in the Chair.

*Mr. President:*

I am directed to inform the Senate that the Assembly have this day passed Assembly bill No. 204, an Act to create the County of Del Norte, to define its boundaries and provide for its organization.

W. CAMPBELL,

Clerk Assembly.

February 27, 1857.

Assembly bill No. 204, an Act to create the County of Del Norte, to define its boundaries and provide for its organization, was read first and second times, the rules suspended, read a third time and passed.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly on yesterday adopted a Concurrent Resolution, requesting the Governor to return An Act entitled an Act incorporating the City of Marysville, and ask the concurrence of the Senate.

Also, passed Senate bill No. 107, An Act to amend an Act entitled an Act to authorize certain Officers and other persons to administer oaths.



Also, passed Assembly Joint Resolution No. 4, relative to a Pacific Railroad.

Also, passed Assembly bill No. 69, An Act amendatory of and supplementary to an Act entitled an Act to provide for the disposal of the 500,000 acres of land granted to this State by Act of Congress passed May 3, 1852.

Also, Assembly bill No. 132, An Act amendatory of and supplementary to an Act in relation to Personal Mortgages in certain Cases, passed May 11, 1853.

Also, Senate bill No. 12, An Act to change the name of Edward C. Higginbottom to Edward Compton Howard.

Also, Senate bill No. 10, An Act to further extend the Act concerning Corporations, passed April 22, 1850.

Also, Senate bill No. 90, An Act to amend an Act entitled an Act to fund the Debt of the County of Calaveras, and provide for the payment thereof, approved May 3, 1852.

Also, have passed Senate bill No. 78, An Act concerning the Harbor Master of the Port of San Francisco, with amendments as therein shown.

Respectfully,

W. CAMPBELL,

Clerk of the Assembly.

Feb. 27, 1857.

On motion of Mr. Goodwin, the Senate concurred in Assembly Concurrent Resolution, requesting the Governor to return an Act entitled An Act incorporating the City of Marysville.

Assembly Joint Resolution relative to a Pacific Railroad, was read first and second times, and referred to the Committee on Internal Improvements.

Assembly bill No. 69, An Act amendatory of an Act supplementary to an Act to provide for the disposal of the 500,000 Acres of Land, granted to this State by Act of Congress, was read first and second times, and referred to the Committee on Public Lands.

Assembly bill No. 132, An Act amendatory of and supplementary to an Act in relation to Personal Mortgages in certain cases, passed May 11, 1853, was read first and second times, and referred to the Judiciary Committee.

Senate bill No. 78, was, on motion of Mr. Mandeville, laid on the table.

The following message was received from the Assembly:

*Mr. President :*

I am directed to inform the Senate, that the Assembly, on yesterday, adopted a Concurrent Resolution relative to Swamp and Overflowed Lands, and appointed a committee consisting of Messrs. McKune, Hall, and Steele, to remodel said laws, in conjunction with a committee of two to be appointed by the Senate, and ask the concurrence of the Senate in the same.

Respectfully,

W. CAMPBELL,

Clerk of the Assembly.

Feb. 27, 1857.

On motion of Mr. Johnson of Sacramento, the Senate concurred in the resolution.

Whereupon, the Chair announced the appointment of Messrs. Johnson of Sacramento, and Ashley, as such committee on the part of the Senate.

Mr. Norman, by leave, introduced a bill for An Act to appropriate three millions two hundred and thirty-nine thousand four hundred and eighty-eight dollars, to pay certain outstanding Claims against the State, which was read first and second time, and referred to the Committee of the Whole for Friday, March 6, 1857, at 12 o'clock, M., and 240 copies ordered printed.

Mr. Bynum, by leave, made the following report:

*Mr. President :*

The Special Committee, to whom was referred Assembly bill No. 195, entitled "an Act concerning the Collection of Taxes in Yolo county," has had the same under consideration, and respectfully recommend the passage of the same without amendment.

S. BYNUM.

Mr. Coffroth moved suspension of rule, that the bill might be considered now.

Mr. Mandeville moved to lay the motion on the table.

The Chair ruled the motion to lay on the table out of order.

Mr. Mandeville appealed from the decision of the Chair.

The question, " Shall the decision of the Chair stand as the judgment of the Senate," was put, and decision of the Chair not sustained.

Question on suspension of rules was taken and lost, and the bill placed on the calendar.

Mr. Coffroth presented the following report from Alex. Bell, one of the State Prison Directors, together with accompanying documents:

*To the Honorable the Senate and Assembly of the State of California:*

GENTLEMEN :—

In conformity with an act of the Legislature, requiring the Directors of the State Prison to submit an annual report of the condition of the Prison, we beg leave to offer to your honorable body the following condensed report :

In order that the Legislature may fully understand the true condition, and the past management, since the Lessee took possession of the Prison and property, we would respectfully refer to a report now being prepared by a Committee from the Assembly. As this will in all probability be a repetition of facts that will be referred to in said report, we deem it an unnecessary consumption of the time of the Legislature to recapitulate what will be explained more fully by said Committee.

A short statement of facts connected with the past management of the Prison may not, however, be uninteresting. The past Legislature passed an Act placing the control and management of the Institution in the hands of other parties, depriving the Directors of even an opportunity of supervising the acts of the Lessee, virtually destroying all right they had to interfere in the said management. The Lessee claimed all property belonging to the State, thus defeating the intent and spirit of the law, by taking possession of the buildings occupied by the Directors, thereby depriving them of what otherwise they would have seen, that he had not complied with his contract. In regard to the management of the Lessee, we have only to refer to the many escapes that have occurred up to the 1st of January, 1857; there had escaped *sixty-six*. Since that time we have no account, but probably eighty. This, however, will be more fully explained by the Committee appointed by the Assembly to visit and investigate. In regard to the inhuman treatment of the prisoners, we refer to the testimony taken by the Committee above referred to.

We would respectfully suggest, as upon a former occasion, (last year's report of A. Bell,) the entire abolition of the "trustee" system, believing as we do, that this has led to many evils and created a feeling of dislike and hatred upon the part of all good citizens towards those who have heretofore managed said Institution. In last year's report the Directors recommended a change of locality to a more central point, and we notice with much pleasure that His Excellency, in his message, recommends the same. The arguments used last year, that it would be a saving to to the State of some one hundred thousand dollars, still hold good, and we would earnestly recommend it to your careful consideration, as it can be shown there are prisoners sent from Counties in this State to the State Prison the cost of which is over four hundred dollars, (and it may be five hundred dollars,) one half of which sum could be saved to the State.

In justification of the course pursued by the Directors in the supervision of the Prison, we call attention to letters by the Attorney General to Alexander Bell, Secretary of the Board, showing it was not in his power to obtain a copy of Estell's contract; copies of letters written to the Board of Commissioners, we also submit, and state to your honorable body, that no answer was received to any of our official communications, except one in regard to some rules and regulations, so indefinite that no one could tell what rules and regulations were alluded to in said letter.

In conclusion, gentlemen, permit us to remark, that, from the knowledge we have of the past, a change is absolutely necessary, and what would be best in the premises, we leave with the Committee to suggest and recommend.

Appended hereto, will be found a list of convicts, terms of service, escapes, &c., &c., up to first of January last. In regard to the treatment of prisoners heretofore by the Lessee, we believe it has not been, as will be shown hereafter, such as will meet your approbation; they having, in our opinion, been badly clad and fed. This will, however, be more fully explained we imagine, by the Committee, than the limits of this report will permit. Up to the time of delivering prisoners to Estell, there had been only six escapes; three Chinamen and three white men.

ALEX. BELL,  
State Prison Director.

#### STATEMENT APPENDED TO REPORT.

"If the Commissioners had established the rules and regulations, and if the Directors had attended to the enforcement of such rules, &c., &c."

I did from time to time, urge the Commissioners to attend to this matter.

The law reads: They shall, in conjunction or consultation with the Directors, correct, alter or amend, rules and regulations.

In the first place, I deny that any rules or regulations were ever made for the government of the Prison; and to prove, the record of the Commissioners will show that in reply to certain official communications addressed by me to their Board, that the only satisfaction I received was that the rules and regulations adopted by the old Board, Messrs. Love and Snowden, we were to adopt.

What was to be understood by the reply to my communication, I cannot imagine, and directly asked of them an explanation as the following letter will show:

LETTER.

To this, and many other communications enclosed under cover to the Controller of State, I have never received a reply, nor do I believe the said communications were ever replied to. No consultation with the Directors has ever been sought by said Board of Commissioners, nor have they ever extended the courtesy due one gentleman to another, and although the Committee seem to reflect upon me as a public officer in the past discharge of my official duties, I do not believe that such would have been the case if they had known all the facts. In defending myself against the implied charges in the report of said Committee, I beg leave to call attention to the letters submitted, showing that every effort was made upon my part to effect the very object which the Committee say would have gone far to correct the evils complained of.

In reference to the above, I beg leave to refer to the Hon. Attorney General, State of California.

I have the Honor to be, respectfully,

Your humble servant,

ALEX. BELL,

State Prison Director.

Report accepted and placed on general file.

SPECIAL ORDER OF THE DAY.

Senate bill No. 76, an Act to abolish the office of Directors of the State Prison.

Mr. Taliaferro moved to postpone until Wednesday next, at 12 o'clock, M., on which the ayes and noes were demanded by Messrs. Coffroth, Fiske and Merritt, and taken with the following result:

AYES.

Messrs. Burnett, Bynum, Coffroth, Cosby, De La Guerra, Fiske, Goodwin, Johnson of El Dorado, Taliaferro, Waite, Westmoreland and Wilson—12.

NOES.

Messrs. Ashly, Carpenter, Chase, Crandall, Ferguson of Sierra, Johnson of Sacramento, Mandeville, McCallum, McGee, Melony, Norman, Shaw and Soule—13.

So the motion was lost.



Bill considered in Committee of Whole, reported back without amendments—  
In Senate, Question, Shall bill be engrossed and read third time—

Mr. Coffroth moved to lay on table, on which the ayes and noes were demanded by Messrs. Norman, Carpenter and Mandeville, and taken with the following result :

AYES.

Messrs. Bell, Burnett, Bynum, Coffroth, Cosby, Fiske, Goodwin, Johnson of El Dorado, Soule, Sullivan, Taliaferro, Westmoreland and Wilson—13.

NOES.

Messrs. Ashley, Carpenter, Chase, Crandall, Ferguson of Sierra, Johnson of Sacramento, Mandeville, McCallum, Melony, Merritt, Norman and Waite—12.

So the bill was laid on the table.

The following message was received from the Assembly :

*Mr. President :*

I am directed to inform the Senate that the Assembly, on the 25th instant, passed Assembly bill No. 176, an Act to extend the time of collecting Taxes in the County of Contra Costa.

Also, on yesterday adopted the report of the Committee of Free Conference on Senate bill No. 33, an Act in addition to and explanatory of an Act for securing Liens to Mechanics and others, approved April 19th, 1856.

J. W. SCOBEE,

February 26, 1857. Assistant Clerk.

Assembly bill No. 176, an Act to extend the time of collecting Taxes in the County of Contra Costa, was read first and second time, rule suspended, considered in Committee of the Whole, and reported back without amendments.

In Senate, Mr. Norman moved its reference to Judiciary Committee, with instructions to bring in a general bill ; lost ; bill read third time and passed.

Senate bill No. 78, an Act concerning the Harbor Master of the port of San Francisco ; amendments of Assembly concurred in.

GENERAL FILE.

Assembly bill No. 152, an Act to amend an Act entitled an Act to incorporate Crescent City, passed April 13th, 1854, was read third time and passed.

Senate bill No. 110, an Act for the relief of Drs. H. and W. P. Gibbons, was laid on the table.

Senate bill No. 39, an Act to amend an Act entitled an Act to regulate the Settlement of the Estates of Deceased Persons, passed May 1st, 1851, and the Acts amendatory thereof, Compiled Laws, p 377, was considered, and on motion of Mr. Burnett, the bill was laid on the table.

On motion of Mr. Bell, the following Assembly message was taken up :

*Mr. President :*

I am directed to inform the Senate that the Assembly have this day passed Assembly bill No. 199, an Act to grant to the Sheriff of Alameda County additional time to make his annual settlement for the collection of State and County Taxes for the year 1856.

J. W. SCOBAY,

February 27, 1857.

Assistant Clerk.

Assembly bill No. 199, an Act to grant to the Sheriff of Alameda County additional time to make his annual settlement for the collection of State and County Taxes for the year 1856, was read first and second time.

Mr. Bell moved to suspend the rules and place bill on its third reading, which was put and lost.

On motion of Mr. Burnett, Senate bill No. 39 was taken from the table and again considered.

Mr. Ashley offered the following amendment :

Add to end of Section 4—"Except in cases of mortgage or specific lien, as in this section provided, and these only as to the property subject to such mortgage or specific lien."

Adopted.

Mr. Shaw offered the following amendment:

Section 6. After the word "shown" insert "and by giving persons public notice in some newspaper published in the County wherein the premises are situated, or in some adjoining County, if none be published therein, for at least two months prior to the granting of the order.

Mr. Ashley moved to amend by striking out "two months" and inserting "one month."

Question on the amendment of Mr. Shaw was put and lost.

Mr. Mandeville moved to strike out the proviso in the 6th section, upon which the ayes and noes were demanded by Messrs. Mandeville, Norman and Goodwin, and taken with the following result:

AYES.

Messrs. Bell, Cosby, Dosh, Johnson of Sacramento, McGee, Mandeville, Norman, Shaw and Wilson—9.

## NOES.

Messrs. Ashley, Burnett, Bynum, Chase, Coffroth, Crandall, De La Guerra, Ferguson of Sierra, Goodwin, McCallum, Melony, Merritt, Soule, Waite and Wilson—15.

So the motion was lost.

Mr. Ashley offered the following amendment:

After "order a private sale" insert "after public notice for at least the time required in case of sale at public auction."

Adopted.

The following amendment was offered by Mr. Ashley:

After "approved" strike out "by the same" and insert "and confirmed by the same as in case of public sale."

Adopted.

On motion of Mr. Shaw, the Secretary was authorized to arrange the sections.

Question being: "Shall the bill be engrossed and read third time?" was put and carried.

On motion of Mr. Burnett, the rule was suspended, and following message of the Assembly taken up:

*Mr. President:*

I am directed to inform the Senate that the Assembly have, this day amended the enrolled bill for an Act to Incorporate the City of Marysville, by striking out "twenty" in section thirteen of article 2 and inserting "ten," and respectfully ask the concurrence of the Senate.

J. W. SCOBEEY,  
Assistant Clerk.

February 27, 1857.

On motion of Mr. Burnett, the amendments of the Assembly to the enrolled bill were unanimously concurred in.

On motion of Mr. Bell, the rule was suspended, and Assembly bill No. 199, an Act to grant to the Sheriff of Alameda County additional time to make his annual settlement for the Collection of State and County Taxes for the year 1856, was taken up, considered in Committee of the Whole, and reported back without amendments.

In Senate.

Bill read third time.

Secretary authorized to strike out the word "next" and insert the figures "1857."

The bill as amended passed.

On motion of Mr. Westmoreland, 240 copies of Senate bill No. 122, an Act taxing certain instruments in writing, was ordered printed.

Mr. Goodwin gave notice that, on to-morrow or some subsequent day, he will introduce a bill for an Act to amend an Act entitled "An Act to provide for the incorporation of Railroad Companies."

The following report was received from the Committee on Enrolled Bills :

*Mr. President :*

Your Committee on Enrolled Bills have examined and found correctly enrolled Senate bill No 93, an Act amendatory of an Act to provide for the protection of Foreigners, and to define their liabilities and privileges, passed March 13th, 1853, passed May 13, 1854.

D. CRANDALL.

Chairman.

On motion of Mr. Burnett, leave of absence was granted Mr. Mesick for this week.

The Committee on Engrossed Bills made the following report :

*Mr. President :*

The Committee on Engrossed Bills have examined Senate Judiciary Committee substitute for Senate bill No. 7, entitled an Act amendatory of and supplementary to an Act to exempt the Homestead and other property from forced sale in certain cases, passed April 21, 1851, and find the same correctly engrossed.

A. R. MELONY,

Chairman.

Mr. Coffroth moved that the Sergeant-at-Arms be and is hereby instructed to have the clock in the Senate Chamber repaired.

Mr. Melony moved to amend that the Sergeant-at-Arms remove the clock.

Lost.

Question on the motion of Mr. Coffroth was taken and carried.

By order of the President, the Secretary of the Senate placed in the hands of the Sergeant-at-Arms certified Articles of Impeachment against G. W. Whitman, late Controller of State, together with the process required by the rules adopted by the Senate.

On motion of Mr. Mandeville, the Senate adjourned.

Approved February 28, 1857.

R. M. ANDERSON,

President Senate.

Attest:

G. S. EVANS, Secretary Senate.



## IN SENATE.

SATURDAY, February 28, 1857.

Senate met pursuant to adjournment.

President in the Chair.

Roll called.

Leave of absence was granted Mr. Sullivan for two days.

Journals of yesterday read and approved.

Mr. Fiske presented the memorial of the California State Temperance Society, praying the passage of a law prohibiting the sale of intoxicating liquors on the Sabbath day, which was referred to Committee on Public Morals.

Mr. Fiske presented the petition of sundry citizens of the State, praying the passage of a Sunday law, which was referred to Committee on Public Morals.

Mr. Bell made the following report:

*Mr. President:*

The Committee on Public Morals, to whom was recommitted a Bill entitled "An Act for the establishing of the first day of the week as a day of rest from secular employments," beg leave to report that petitions are before your Committee signed by all classes, trades, occupations and professions; that the petitions are from most parts of the State; that they make, when put together, about 100 feet of names written in double solid columns.

Your Committee beg leave further, to report that they herewith submit a substitute in the place of the Bill recommitted to them, and recommend the passage of the substitute.

BELL,

Chairman.

Report accepted and bill placed on calendar.

Mr. Norman, Chairman of the Committee on Mines and Mining Interests, made the following report:

*Mr. President:*

The Committee on Mines and Mining Interests, to whom was referred Senate Bill No. 37, entitled "An Act to exempt mining claims and mining implements from forced sale in certain cases," have had the same under consideration and recommend the passage of the bill with the additional Section which they have adopted and append to the same. We find that laws of a similar character have been passed for the benefit of the learned professions and of the farming interests, and we know of no good reason why the present bill should not be passed for the benefit of the miners. All branches of business in this State, are sup-

ported for the most part, by the labor of the miners,—and it is the due policy of the State, to encourage and protect that labor by the enactment of such wholesome laws as are put in force for the protection and encouragement of other branches of industry.

This bill proposes to grant to the miner the right to exempt his claim from forced sale under execution to the amount of two thousand dollars, which is three thousand dollars less than is exempted for the farmer, and much less than is often exempted from forced sale for the benefit of lawyers and doctors. There is nothing compulsory in the bill, but it allows the miner the same privileges to elude the grasp of a persecuting creditor that is extended to others. We recommend the passage of the bill as amended.

W. B. NORMAN,  
Chairman.

W. I. FERGUSON,  
S. H. DOSH,  
S. A. MERRITT,  
J. W. MANDEVILLE.

Report accepted and bill placed on calendar.

Mr. Bell, Chairman of the Committee on Public Morals, made the following report:

*Mr. President:*

The Committee on Public Morals, to whom was referred Senate Bill No. 112, entitled "An Act to create a State Police force," beg leave respectfully to report the same back to the Senate, with the statement that your Committee are divided in opinion in relation to the merits of the bill, and are not prepared to recommend that it do or do not pass.

BELL,  
Chairman.

Report accepted and bill placed on calendar.

Mr. Shaw made the following report:

*Mr. President:*

The Special Committee to whom was referred the Act relating to the officers of San Mateo County and prescribing their duties, report that they have fully examined the subject in connection with the wishes and interests of the people of said County, and recommend that the bill be passed with the following amendments per order of the Committee:

WM. J. SHAW,  
Chairman.

Strike out the 1st and 2d sections and substitute the following in place thereof:

"Section 1. All the official acts and proceedings of all officers elected in and for the County of San Mateo, who are now holding offices therein, and of their predecessors in office, are hereby declared and made as legal and valid in all respects up to and until the next election of County Officers in and for said County, as though their election had been in all respects legal and valid; *Provided*, such officers have severally taken the oath of office, and shall within fifteen days after the passage of this Act give the official bonds required by law. It being, however,

expressly provided and intended that neither the County Judge, nor any other officer of said County whomsoever, shall be authorized or permitted to continue in office or perform any official duty under authority of this Act for a longer time than until the next general election, or until a special election for County Officers in said County; *provided*, such special election shall be authorized by law prior to the next general election, and until their successors shall be elected and qualified."

Report accepted and bill placed on calendar.

The following report was received from the Judiciary Committee:

*Mr. President:*

The Judiciary Committee, to whom was referred Senate bill No. 114, an Act supplementary to "an Act securing liens to mechanics and others," passed April 19th, 1856, have had the same under consideration, and beg leave to report the same back and recommend its passage.

Also, Assembly bill No. 135, an Act concerning tenants in common, joint tenants and copartners, and recommend its passage.

Also, Assembly bill No. 32, an Act supplementary to "an Act to apportion the Senatorial and Assembly Districts of this State," passed May 18th, 1853, and recommend its passage.

Also, Senate substitute for Senate bill No. 71, an Act concerning official and other bonds, and recommend that the second section of the bill be stricken out and the accompanying amendments adopted in its place as sections 2d and 3d.

D. R. ASHLEY,

Chairman.

Report accepted and bills placed on the calendar.

The following report was received from Mr. Norman:

*Mr. President:*

The Calaveras Delegation, to whom was referred Senate bill No. 118, ask leave to report the same back to the Senate and recommend its passage without amendments.

W. B. NORMAN.

Report accepted and bill placed on calendar.

The following report was received from Mr. Norman :

*Mr. President:*

The Calaveras Delegation, to whom was referred Senate bill No. 64, an Act to amend an Act entitled an Act to amend the 14th section of an Act entitled an Act concerning the office of County Treasurers, passed March 27th, 1850—passed May 17th, 1853, have had the same under consideration, and recommend that it be indefinitely postponed.

W. B. NORMAN.

Report accepted and bill placed on calendar.

The following message was received from the Assembly :

*Mr. President :*

I am directed to inform the Senate that the Assembly on yesterday passed Assembly bill No. 10, an Act to amend an Act to define the Rights of Husband and Wife, passed April 17th, 1850.

Respectfully submitted,

W. CAMPBELL,

February 27, 1857.

Clerk of Assembly.

Assembly bill No. 10 was read first and second time and referred to Judiciary Committee.

The following message was received from the Assembly :

*Mr. President :*

I am directed to inform the Senate that the Assembly, on the 26th instant, indefinitely postponed Senate Bill No. 44, an Act to amend an Act entitled an Act to protect owners of Growing Crops, Buildings, and other improvements in the Mining Districts of this State, approved April 25th, 1855.

Also, have appointed Messrs. Steele, Shepard and Curtis a Committee of Free Conference on disagreeing vote on Senate amendments to Assembly bill No. 15, an Act to guard against the destruction of property on the Sacramento and San Joaquin rivers and their tributaries, by means of sparks from the chimneys of steamboats navigating said waters.

J. W. SCOBEEY,

February 28, 1857.

Assistant Clerk.

The following message was received from the Assembly :

*Mr. President :*

I am directed to inform the Senate that the Assembly, on yesterday, concurred in Senate amendments to Senate Bill No. 63, an Act relative to the Board of Supervisors of Santa Barbara county.

Also, have concurred in Senate amendments to Senate Bill No. 82, an Act to reduce the salary of the County Judge of El Dorado county.

Also, have passed Senate Bill No. 13, an Act to limit the time for presentation of claims against counties, and for receiving payment for the same, with amendments to the same, and ask the concurrence of the Senate.

Also, Assembly Bill No. 190, an Act to cede certain property to the town of Eureka.

J. W. SCOBEEY,

Assistant Clerk.

February 28th, 1857.

Assembly Bill No. 190, was read first and second time and referred to Committee on Public Lands.



Mr. Bell introduced a bill for an Act supplementary to an act entitled "An Act to incorporate the city of Oakland," passed March 25th, 1854, which was read first and second time and referred to Judiciary Committee.

Mr. Goodwin introduced a bill for an Act to amend an act entitled "An Act to provide for the incorporation of Railroad Companies," which was read first and second time and placed on calendar.

Mr. Waite introduced a bill for an Act to separate the office of Recorder and Auditor from the office of Clerk in the county of Nevada, which was read first and second time, and referred to Nevada Delegation.

Mr. McCallum rose to a question of privilege; read a letter from Judge D. S. Terry to him, touching the report of his speech on the 26th inst., upon the report of the Committee on Claims upon the State debt, as reported in the Union newspaper of this city.

The Secretary was directed to return Assembly message, received this morning, for correction.

#### GENERAL FILE.

Senate Bill No. 7, an Act amendatory of and supplementary to an Act to exempt the homestead and other property from forced sale in certain cases, passed April 21st, 1851.

On the question of final passage, Mr. Bell moved to recommit to the Judiciary Committee with special instructions.

Lost.

Mr. Ashley moved to recommit the bill to the Judiciary Committee with special instructions to strike out the 7th Section and report the bill immediately.

Mr. Norman moved to amend, by adding "that they be further instructed to cause the benefits of this Act to be extended to unmarried men."

Mr. Burnett rose to a point of order that the amendment to the amendment was out of order.

A similar amendment having been offered by the Senator from Alameda, and not sustained, the Chair decided the point of order not well taken. From which decision, Mr. Burnett appealed.

The question being "shall the decision of the Chair stand as the judgment of the Senate," was put, and the decision of the Chair sustained.

Question on the amendment to the amendment offered by Mr. Norman, was put and lost.

Mr. Norman offered the following amendment:

That the Committee be instructed to further amend the bill by causing the benefits thereof to apply to unmarried persons. .

Lost.

Mr. Ashley moved the previous question, which was sustained.

The main question being the adoption of the amendment of Mr. Norman to the amendment of Mr. Ashley, upon which the ayes and noes were demanded by Messrs. Cosby, Merritt and McGee, and taken with the following result:

AYES.

Messrs. Bell, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Johnson of El Dorado, McGee, Melony, Norman, Shaw, Taliaferro and Wilson—11.

NOES.

Messrs. Ashley, Burnett, Bynum, Carpenter, Chase, Coffroth, Cosby, Crandall, Fiske, Goodwin, Johnson of Sacramento, McCallum, Merritt, Soule and Waite—15

So the amendment was lost.

The question recurring on the motion of Mr. Ashley, was put and carried.

So the bill was recommitted with special instructions.

Assembly Bill No. 195, an Act concerning the collection of taxes in Yolo county, was read third time and passed.

Mr. Ashley, by leave, made the following report:

*Mr. President:*

The Judiciary Committee, to which was committed Senate Bill No. 7, an Act to exempt the homestead and other property, from forced sale in certain cases, passed April 21st, 1851, with special instructions, have complied with the instructions, and have struck out the 7th Section.

D. R. ASHLEY,  
Of Committee.

Report accepted.

Mr. McCallum in the Chair.

Report of Committee adopted.

The Chair announced the bill on its second reading.

Mr. Ashley insisted that the bill was now on its final passage; that the striking out a section was not an amendment.

The Chair decided that the bill is now upon its second reading; that the striking out of a section under special instructions, is the same in effect as reporting an additional amendment, whereupon Mr. Ashley appealed from the decision of the Chair.

Question—Shall the decision of the Chair stand as the judgment of the Senate, was taken, and the decision of the Chair sustained.

The bill was then read second time.

Mr. Goodwin moved the suspension of the rule, and that the bill be considered engrossed, and read third time.

Lost.

Mr. Goodwin moved the indefinite postponement of the bill.

Mr. Coffroth moved the previous question, which was put.

The Chair announced the question carried.

Mr. Norman objected, and called for a recount.

The Chair decided that Senators could not be called upon to vote again.

Mr. Norman appealed from the decision of the Chair.

Question: Shall the decision of the Chair stand as the judgment of the Senate?

The ayes and noes were demanded by Messrs. Bell, Ashley and Burnett.

Mr. Mandeville rose to a point of order: That the Chair had decided the question on the previous question "carried," and that the Senator could not appeal.

The Chair decided the point of order well taken.

The question being upon the indefinite postponement of the bill, the ayes and noes were demanded by Messrs. Bell, Ashley and Burnett, and taken with the following result:

#### AYES.

Messrs. Ashley, Bell, Burnett, Bynum, Chase, Cosby, Crandall, Dosh, Fiske, Goodwin, Mandeville, Merritt and Norman—13.

#### NOES.

Messrs. Carpenter, Coffroth, Ferguson of Sierra, Johnson of Sacramento, Johnson of El Dorado, McCallum, McGee, Melony, Shaw, Soule, Taliaferro, Waite and Wilson—13.

So the motion was lost.

Question: Shall the bill be engrossed and read third time?

The ayes and noes were demanded by Messrs. Norman, Chase and Mandeville, and taken with the following result:

#### AYES.

Messrs. Carpenter, Coffroth, Ferguson of Sierra, Goodwin, Johnson of Sacramento, Mandeville, McCallum, McGee, Melony, Merritt, Shaw, Soule, Taliaferro, Waite and Wilson—15.

Messrs. Ashley, Bell, Brnnett, Bynum, Chase, Cosby, Crandall, Dosh, Fiske, Johnson of El Dorado and Norman—11.

So the bill was ordered engrossed, and read third time.

Mr. Coffroth, by leave, introduced a bill for an Act to authorize the Board of Supervisors of the City and County of San Francisco to provide for the compensation due the Board of Examiners of said City.

Read first and second time, and referred to San Francisco Delegation.

Senate bill No. 74, an Act for establishing of the first day of the week, called Sunday, as a day of rest from secular employment, reported from Committee on Public Morals, with a substitute, was taken up.

Substitute adopted, and considered in Committee of the Whole.

Reported back without amendment.

In Senate.

Mr. Bell moved to place the bill at foot of calendar.

Lost.

Reading of the bill called for for information.

Objections being made, the question was put: Shall the bill be read for information?

Carried.

Mr. Coffroth moved its indefinite postponement.

Mr. Bell moved to refer to Judiciary Committee.

Mr. Ashley moved to postpone until 4th July next.

Chair ruled that motion to commit had precedence, and the motion of Mr. Ashley was not in order.

Mr. Coffroth moved to make it special order of the day for 4th of May, 12 o'clock M.

Mr. Chase moved to amend by inserting 31st day of March next.

Mr. Mandeville moved to lay on the table.

Mr. Fiske moved to adjourn, which was lost.

Question on laying on the table was taken and carried.

Mr. Shaw offered the following resolution:

*Resolved*, That the subpoenas issued in the cases of impeachment now pending, be directed to, and served by the Sergeant-at-Arms of the Senate.

Adopted.

Mr. Crandall made the following report:

*Mr. President:*

Your Committee on Enrolled Bills, have examined and found correctly enrolled, Senate Bill No. 10, an Act to further extend the act concerning corporations, passed April 22d, 1850.



Also, Senate Bill No. 33, an Act in addition to and explanatory of, an act for securing liens to mechanics and others, approved April 19th, 1856.

Also, Senate Bill No. 107, an Act to amend an act entitled "An Act to authorize certain officers and other persons, to administer oaths.

Also, Senate Bill No. 12, an Act to change the name of Edward C. Higginbottom to Edward Compton Howard.

D. CRANDALL,  
Chairman.

Mr. Cosby, by leave, introduced a Bill for an Act to preserve the sanctity of private reputation, and the more effectually to prevent breaches of the peace, which was read first and second time, and referred to Judiciary Committee.

On motion of Mr. Taliaferro, the Senate adjourned.

Approved March 2d, 1857.

R. M. ANDERSON,  
President Senate.

Attest:

GEO. S. EVANS, Secretary Senate.

## IN SENATE.

MONDAY, March 2, 1857.

Senate met pursuant to adjournment.

President in the Chair.

Roll called. Absent, Mr. Westmoreland.

Leave of absence was granted to Mr. De La Guerra for the day.

Mr. Woodworth, Senator elect from San Francisco, appeared within the bar of the Senate, presented his credentials, took the oath of office, and his seat.

Journals of Saturday read and approved.

Mr. Ashley presented the following resolution :

*Whereas*, Messrs. De La Guerra and Goodwin, who were appointed on the Joint Committee on translation of the laws into Spanish, are absent from the Capitol, and *whereas* this is the day appointed by law for opening proposals, therefore

*Resolved*, That the President appoint two Senators on said Joint Committee, in place of said absentees.

Adopted.

The Chair announced Messrs. Wilson and Merritt on said Committee.

Mr. Bell made the following report :

*Mr. President:*

The Committee on Public Morals, to whom was referred the memorial of the California State Temperance Society, beg leave to recommend that double the usual number of said memorial be printed.

BELL, Chairman.

Report accepted and bill placed on calendar.

Mr. Shaw made the following report :

*Mr. President:*

The Committee on Commerce and Navigation, to whom was referred the Act to declare Feather River navigable, report that they have considered the same, and recommend its passage, without amendment.

WM. J. SHAW,

Chairman.

Report accepted and bill placed on calendar.

Mr. Waite made the following report :

*Mr. President:*

The Committee on Corporations, to whom was referred Assembly bill No. 147, entitled an Act to re-incorporate the city of San Jose, have examined the same, and report in favor of its passage.

WAITE, Chairman.

Report accepted and bill placed on calendar.

Mr. Waite made the following report :

*Mr. President:*

The Committee on Commerce and Navigation have given consideration to Assembly bill No. 114, an Act to prevent the owners of saw-mills and other persons from obstructing the channels of Humboldt Bay and Harbor, and report in favor of its passage, with the amendments herewith proposed.

E. G. WAITE,

Of the Committee.

Report accepted and bill placed on calendar.

Assembly message received on Saturday relating to Senate bill No. 13, an Act to limit the time for presentation of Claims against Counties, and for re-

ceiving payment for the same, which was returned to the Assembly for correction, was read, and amendments of Assembly concurred in.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly on yesterday concurred in Senate amendments to Assembly bill No. 96, an Act to amend an Act to incorporate the city of Monterey, approved May 11th, 1853.

Also, on the 26th inst., passed Assembly bill No. 156, an Act concerning the Boundary Lines of the County of San Bernardino, and Assembly bill No. 171, an Act to authorize the Board of Supervisors of Stanislaus County to levy an additional tax for county purposes.

J. W. SCOBEEY,

February 28, 1857.

Assistant Clerk.

Assembly bill No. 156 was read first and second time, and referred to San Bernardino Delegation.

Assembly bill No. 171 was read first and second time, rule suspended, read third time and passed.

On motion, the title of the bill was amended.

Mr. Bell gave notice that, at an early day, he will introduce a bill for an Act to be entitled "An Act to amend an Act to exempt the Homestead and other property from forced sale in certain cases, passed April 21, 1851."

Mr. Johnson asked leave to introduce a bill for an Act relative to making appropriations

Mr. Shaw objected.

Mr. Burnett moved a suspension of the rule.

Lost.

Mr. Cosby, by leave, introduced a bill for an Act to authorize the Treasurer of State to issue bonds for the payment of expenses incurred by the Siskiyou Expedition against the Indians during the year 1856.

Read first and second time, and referred to Committee on Military Affairs.

Mr. Johnson gave notice that, on to-morrow, he will introduce a bill for an Act relative to making appropriations.

On motion of Mr. Mandeville, leave of absence was granted to George S. Evans, Secretary of the Senate, for five days.

#### GENERAL FILE.

Senate bill No. 37, an Act to exempt mining claims and mining implements from forced sale in certain cases.

Mr. Coffroth in the Chair.

Bill considered in Committee of the Whole, and reported with amendments.

In Senate—Amendments of Committee adopted.

Mr. McCallum amended by inserting at the end of first section the words  
 “upon a judgment rendered in any civil action.”  
 Adopted.

On motion of Mr. Mandeville, the bill was considered engrossed; read a third time and passed.

Assembly bill No. 44, an Act relating to the officers of San Mateo County, and prescribing their duties, with amendments of the Special Committee, was taken up.

Mr. Shaw amended the amendment of Committee.

Adopted.

Amendments of Committee adopted.

Mr. Taliaferro moved to lay on table.

Lost.

Bill read third time and passed.

On motion, the title was amended.

Senate bill No. 118, an Act to authorize the Board of Supervisors of Calaveras County to levy a special tax to redeem the County Warrants was considered engrossed, read third time and passed.

Assembly bill No. 32, an Act supplementary to an Act to apportion the Senatorial and Assembly Districts of this State, passed May 18, 1853, was considered in Committee of the Whole.

Reported without amendments.

In Senate, on motion of Mr. Mandeville, it was made the special order of the day for to-morrow at 12 M.

Senate bill No. 114, an Act supplementary to an Act for securing liens to mechanics and others, passed April 19, 1856, was considered engrossed, read third time, and passed.

Assembly bill No. 135, an Act concerning tenants in common, joint tenants and copartners.

Mr. Shaw moved to lay it on the table.

Lost.

Mr. Chase moved to amend by striking out “their rights” in the last line and inserting “the rights of such party.”

Adopted.

On motion of Mr. Shaw, the bill was laid on the table.



Senate Bill No. 71, an Act concerning official bonds, was considered in Committee of the Whole, amendments of Judiciary Committee concurred in, and reported back.

In Senate—Amendments adopted, considered engrossed, read third time and passed.

Senate Bill No. 64, an Act to amend an act entitled "An Act to amend the 14th Section of an act entitled "An Act concerning the office of County Treasurers," passed March 27th, 1850, passed May 17th, 1853, was indefinitely postponed.

Senate Bill No. 127, an Act to amend an act entitled "An Act to provide for the incorporation of Railroad Companies," was referred to Committee on Corporations.

Report of Mr. Bell, recommending the printing of the Memorial of the California State Temperance Society, Mr. McGee moved to lay on table; upon which, the ayes and noes were demanded by Messrs. Taliaferro, McCallum and Fiske, and taken with the following result:

#### AYES.

Messrs. Ashley, Carpenter, Chase, Crandall, Ferguson of Sacramento, Ferguson of Sierra, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McGee, Melony, Merritt, Mesick, Norman, Waite, Wilson and Woodworth—17.

#### NOES.

Messrs. Bell, Burnett, Bynum, Coffroth, Cosby, Dosh, Fiske, McCallum, Shaw, Soule and Taliaferro—11.

So the report was laid on the table.

Assembly Bill No. 147, an Act to incorporate the city of San Jose, was read third time and passed.

Assembly Bill No. 47, an Act to declare Feather river navigable, was read third time and passed.

Senate Bill No. 112, an Act to create a State Police Force, was laid on the table.

Assembly Bill No. 114, an Act to prevent owners of saw mills and other persons, from obstructing the channels of Humboldt Bay and Harbor, was considered in Committee of the Whole, amendments of Committee on Commerce and Navigation concurred in, and reported back.

In Senate—Amendments adopted, read third time and passed.

Mr. Bell gave notice that he would, on to-morrow, move a reconsideration of the vote on the passage of the Bill declaring Feather river navigable.

Mr. Crandall, Chairman of the Committee on Enrolled Bills, made the following report:

*Mr. President:*

Your Committee on Enrolled Bills, have examined and found correctly enrolled, Senate Bill No. 63, an Act relative to the Board of Supervisors of Santa Barbara county.

Also, Senate Bill No. 82, an Act to reduce the salary of the County Judge of El Dorado county.

D. CRANDALL,  
Chairman

Mr. Ashley, of the Joint Committee on the selection of a translator of the laws of 1856 and 1857, into Spanish, made the following report:

*To the Senate and Assembly of the State of California:*

The Joint Committee of both Houses, appointed to examine and select proposals for translating the laws of 1856 and of 1857, into Spanish, have performed the duty, and find that L. G. Cabanis proposes to translate said laws for one dollar per folio. Miguel Smith proposes to do the same for one and a half dollars per folio, and Thomas R. Eldridge offers to translate as aforesaid, for the sum of 60 cents per folio.

Your Committee being satisfied of the qualifications and competency of Thomas R. Eldridge, and his bid being much the lowest, have unanimously selected his proposal as being the best, and have awarded to him the translation of the laws of 1856 and of 1857, which are to be translated into Spanish.

D. R. ASHLEY,  
SAML. MERRITT,  
B. D. WILSON.

Of the Senate.

ESTEVEAN CASTRO,  
G. WASHINGTON PATRICK,  
D. W. C. RICE.

Of the Assembly.

Report accepted, and, on motion, the recommendation of the Committee concurred in.

#### UNFINISHED BUSINESS.

Report of the Committee on Claims, with various bills and accounts therewith, taken up, and on motion of Mr. Mandeville, made the special order for to-morrow, March 3d, at 12½ o'clock, P. M.

Senate bill No. 9, an Act granting to the Alameda County Turnpike Company certain overflowed lands in Alameda County, was read a third time and passed.

On motion of Mr. Merritt, the business laid on the table was placed on general file.

Senate bill No. 74, an Act for the establishing of the first day of the week as a day of rest from secular employments, was taken up.

The question recurring upon the amendment to the amendment, which was to make the bill the special order of the day for March 31st, was taken and lost.

The question recurring on the motion to make the bill the special order of the day for the 4th of May next, was taken and lost.

Mr. McCallum moved the reference of the bill to the Judiciary Committee, which was carried.

Mr. Bell, of the Committee on Public Morals, reported the following additional section to Senate Bill No. 74, which was referred to the Judiciary Committee :

Section 7. Such inhabitants of this State, who, in accordance with the tenets of their religious faith, do actually and in good faith observe any day of the week other than that herein named as a day of rest from secular employments, shall not be subject to the penalties of this Act *Provided*, That they in nowise interfere with the observance of the first day of the week by others.

Mr. Shaw gave notice that at an early day he will introduce a bill concerning the Fire Department of San Francisco.

Senate bill No. 110, an Act for the Relief of Drs. H. and W. P. Gibbons was, on motion of Mr. Shaw, made the special order for 12½ o'clock to-morrow.

Mr. Soule, by leave, introduced a bill for an Act to amend an Act entitled an Act to repeal the several charters of the city of San Francisco, to define the boundaries of the city and county of San Francisco, and to consolidate the government thereof, passed April 19th, 1856, which was read first and second times and referred to the Delegation from San Francisco.

Senate bill No. 35, an Act to remunerate J. W. Denver for his services as Commissioner of the California War Debt, was, on motion, indefinitely postponed.

Joint resolution relative to assigning a day for the election of Physicians to the Insane Asylum, was, on motion, referred to the Judiciary Committee.

Senate bill No. 76, an Act to abolish the office of State Prison Directors was, on motion of Mr. Mandeville, considered engrossed, and read a third time.

Mr. Merritt moved to lay the bill on the table.

Lost.

The question being on the final passage of the bill, the ayes and noes were demanded by Messrs. Norman, Melony and Waite, and taken with the following result:

AYES.

Messrs. Ashley, Burnett, Carpenter, Chase, Coffroth, Crandall, Dosh, Ferguson of Sierra, Johnson of Sacramento, Mandeville, McCallum, McGee, Melony, Merritt, Mesick, Norman, Shaw, Soule, Waite, Wilson and Woodworth—21.

## NOES.

Messrs. Bell, Cosby, Fiske and Taliaferro.—4.

So the bill was passed.

Mr. Waite moved a reconsideration of the vote upon the passage of the bill.

Mr. McCallum moved to indefinitely postpone the motion to reconsider, which was put and carried.

Assembly bill No. 135, an Act concerning Tenants in common, joint Tenants and Copartners, was taken up.

Mr. Shaw moved to lay the bill upon the table, which was lost.

Mr. Chase offered the following amendment :

Strike out the words "their rights" in last line, and insert "the rights of such party."

Adopted.

The bill was then read a third time and passed.

The following message was received from the Assembly :

*Mr. President:*

I am directed to inform the Senate that the Assembly on the 28th of February concurred in Senate concurrent resolution, relative to the translation of laws into the Spanish language, and have appointed Messrs. Castro, Patrick and Rice, Committee on the part of the House.

Also, have passed Assembly bill No. 158, an Act to amend Section six of an Act to provide for the erection of a Jail in the County of Tuolumne, passed April 18th, 1856.

Also, on the 26th February, passed Assembly bill No. 172, an Act authorizing Brice Grimes to build a wharf on Napa Creek.

J. W. SCOBEEY,

March 2, 1857.

Assistant Clerk.

Assembly bill No. 158 was read first and second times and referred to the Delegation from Tuolumne County.

Assembly bill No. 172 was read first and second times and referred to Committee on Commerce and Navigation.

On motion of Mr. Bell, the Senate adjourned.

Approved March 3d, 1857.

S. H. DOSH,

President Senate *pro tem.*

Attest:

TRO. WARD, Assistant Secretary of Senate



## IN SENATE.

TUESDAY, March 3d, 1857.

Senate met pursuant to adjournment.

President in the Chair.

Roll called.

Journal of yesterday read and approved.

Mr. Mandeville in the Chair.

Mr. Fiske, Chairman of the Committee on Internal Improvements, made the following report:

*Mr. President:*

The Committee on Internal Improvements, to whom was referred Assembly Joint Resolution No. 4, relative to a Pacific Railroad, have had the same under consideration, and would recommend its passage.

HENRY M. FISKE,

Chairman.

Report accepted and resolution placed on calendar.

Mr. Shaw, Chairman of the Committee on Commerce and Navigation, made the following report:

*Mr. President:*

The Committee on Commerce and Navigation, to whom was referred the Act authorizing Brice Grimes to build a wharf on Napa Creek, report that they have examined the same and can find no objections thereto. They therefore recommend its passage without amendment.

W. J. SHAW,

Chairman.

Report accepted and bill placed on calendar.

Mr. Shaw, Chairman of the Committee on Claims, made the following report:

*Mr. President:*

The Committee on Claims, to whom was referred Assembly Bill No. 153, an Act to pay E. H. Burns for services in Indian War, report the same back, and recommend that it be referred to the Committee on Military Affairs.

Report accepted and bill placed on calendar.

Mr. Melony, Chairman of the Committee on Engrossed Bills, made the following report:

*Mr. President:*

The Committee on Engrossed Bills, have examined Senate Bill No. 39, entitled "An Act to amend an act entitled an Act to regulate the settlement of the estates of deceased persons," passed May 1st, 1851, and the acts amendatory thereof, and find the same correctly engrossed.

A. R. MELONY,  
Chairman.

Mr. Soule, of the San Francisco Delegation, made the following report:

*Mr. President:*

The San Francisco Delegation, to whom was referred the petition of the Executrix and Executors of the last will and testament of the late Wm. D. M. Howard, deceased, together with Senate Bill No. 116, entitled "An Act to authorize the said Executrix and Executors of said last will and testament of said decedent to sell real estate of the testator at private sale," respectfully report: That from an examination of said will of said testator, they believe it was the intention of the decedent to bestow full authority on said Executrix and Executors to sell any part of the real estate of said decedent at private sale; and we believe the well known high position of the said Executrix and Executors for morality, integrity and business capacity, a sufficient guarantee that the settlement of said estate will be honorably and advantageously conducted, and that the best interests of the legatees and heirs would be promoted by the passage of said bill as prayed for. We therefore, respectfully recommend the passage of the same without amendment.

SHAW,  
SULLIVAN,  
WOODWORTH,  
SOULE.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly passed, February 28th, Senate Bill No. 134, an Act authorizing the United States to purchase lands for public purposes, with amendments, and ask the concurrence of the Senate.

Also, on yesterday, passed Senate Bill No. 97, an Act to amend an act entitled "An Act concerning the Board of Supervisors of Placer county," approved February 4th 1857, with amendments to bill and title, and ask the concurrence of the Senate.

Also, Senate bill No. 111, an Act to amend an Act entitled "An Act concerning evidence, passed February 5, 1856, with amendments," and ask the concurrence of the Senate.

Also, Assembly bill No. 186, an Act to provide for the indigent sick in the County of Butte.

J. W. SCOBEEY,  
Assistant Clerk.

March 3, 1857.

Senate bill No. 104, with Assembly amendments, was taken up, and amendments concurred in.

Senate bill No. 97, with Assembly amendments, was referred to the Delegation from Shasta.

Senate bill No. 111, with Assembly amendments—amendments concurred in.

Assembly bill No. 186, was read first and second time, and referred to the Delegation from Butte.

Mr. Norman, by leave, introduced a bill for an Act concerning the revenue of Calaveras County.

Read first and second time and referred to the Delegation from Calaveras.

Mr. Ferguson of Sacramento, by leave, introduced a bill for an Act to authorize Maria Ignacia, wife of Jarvier Alvisa, and Maria Juana, wife of Jose Rochine, to sell and convey real estate.

Read first and second time, and referred to the Judiciary Committee.

Mr. Johnson of Sacramento introduced a bill for an Act relative to Acts making appropriations.

Read first time.

Mr. Waite gave notice that, on to-morrow, he will introduce an Act to protect Submarine Telegraph Cables, and concerning Telegraph Companies generally.

Mr. Shaw, having obtained leave, withdrew the bill and report of the Committee on Claims for the relief of E. H. Burns for services in Indian War.

On motion of Mr. Bell, and in accordance with previous notice, the vote on the passage of Assembly bill No. 47 was reconsidered.

On motion of Mr. McGee, vote on third reading was reconsidered, and bill referred to Delegations from Yuba, Butte and Plumas.

Mr. De La Guerra offered the following resolution:

*Whereas*, A Committee of the Senate, consisting of Messrs. De La Guerra, Ashley and Goodwin, were appointed, in conjunction with a similar Committee of the Assembly, to open the proposals offered for the translation of the laws; and, *whereas*, owing to the absence of two members of the Committee, they were superseded by the appointment of two other members of the Senate, therefore,

*Resolved by the Senate*, (The Assembly concurring,) That the whole subject matter of the translation of the laws, the proposals, &c., be recommitted to the original Committee for their action.

Adopted.

The hour having arrived for the consideration of the special order, the Chair announced—

Senate bill No. 17, an Act amendatory of and supplementary to an Act entitled "An Act to create the office of State Printer, and to define the duties and compensation thereof, and to provide for the time and manner of elections, passed May 1st, 1854."

On motion of Mr. Ashley it was recommitted to the Committee on Printing,

Senate bill No. 110, an Act for the relief of Docts. H. and W. P. Gibbons, made the special order for to-day, was, on motion of Mr. Fiske, made the special order for to-morrow, March 4th, at 12½ o'clock.

Report of the Committee on Claims, with bills and claims connected therewith, was, on motion of Mr. Coffroth, made the special order for to-morrow at 12 o'clock.

Assembly bill No. 32, an Act supplementary to an Act to apportion the Senatorial and Assembly Districts of this State, passed May 18th, 1853, was considered in Committee of the Whole, and reported back without amendment.

In Senate, Mr. McGee moved to recommit to the Judiciary Committee, with special instructions, which was lost.

The question recurring on the third reading of the bill, was put and carried, and the bill passed.

The following message was received from the Governor :

EXECUTIVE DEPARTMENT,  
Sacramento, March 2, 1857. }

*To the Senate of California :*

I have this day approved an Act to fix the time of holding the several Courts authorized to be held by the County Judge of the County of Santa Cruz.

J. NEELY JOHNSON.

Mr. Dosh, Chairman of the Committee on Military Affairs, made the following report :

*Mr. President :*

The Committee on Military Affairs, to whom was referred Senate bill No. 131, entitled an Act to authorize the Treasurer of State to issue bonds for the payment of expenses incurred by the Siskiyou Expedition against the Indians, during the year 1856, after a careful examination of the same, find its provisions singularly free from objections, and therefore report back, with the recommendation that it pass.

S. H. DOSH,  
Chairman.

Report accepted and bill placed on calendar.



Mr. Taliaferro, by leave, introduced a bill for an Act amendatory of and supplementary to an Act for the Protection of Game, passed May 13th, 1854, which was read first and second times and referred to the Judiciary Committee.

Mr. Melony, by leave, made the following report:

*Mr. President:*

The Joint Special Committee from the Hospital Committee of the Senate and Assembly, to whom was assigned the duty of visiting and examining the condition of the State Insane Asylum, located at Stockton, respectfully beg leave to submit the following Report:

In accordance with the requirements of the joint resolution of both branches of the Legislature, your Committee visited the city of Stockton, and immediately proceeded to the discharge of the duties assigned them.

We found the Asylum buildings, outbuildings and grounds, in good condition, every department being well attended to and in perfect order. The buildings, which present a fine exterior, are within neat, clean, and well ventilated; the grounds and walks conveniently arranged, and all having the appearance of being regularly cared for and conducive to some amelioration in the condition of the unfortunate inmates of the Asylum, who are the objects of the State's charity.

In visiting the respective wards we found one hundred and eighty patients, afflicted with all the different phases of insanity, but in as comfortable a condition as good care and attention would render them, and their unfortunate malady would allow. The medical department appeared to be well conducted, and the patients to be treated in a satisfactory manner.

Your Committee observed that the manner of heating the building was very defective; being not only very inconvenient and much more expensive than the modes in use in the older States in public buildings of this kind, but is also a source of danger to the building and the lives of the inmates. We would therefore recommend that an appropriation be made for the purpose of procuring a suitable apparatus for heating the Asylum buildings, which will produce an even temperature throughout, and remedy the defects above alluded to; and that the Trustees be authorized to purchase the same.

In visiting the grounds of the institution, we were pleased to find that a small portion thereof had been placed under cultivation; and your Committee are of the opinion that a certain class of patients might be employed in such a manner, working lightly for a few hours at a time, so as to prove highly beneficial to themselves.

In regard to the financial affairs of the institution, we beg leave to refer you to that portion of the Report of the Resident Physician, Dr. Langdon, touching upon that subject, and also to the suggestions of that officer, in regard to the necessary appropriations for the present year. Your Committee, in accordance with the requirements of the Joint Resolution, also made an examination of the affairs of the Asylum whilst under the management of the late Resident Physician, Dr. Reid, and are of the opinion that the medical and financial affairs of the institution, whilst under his superintendence, were conducted in such a manner as to reflect great credit upon that gentleman.

After having made our examination of the Asylum buildings and grounds, and of the condition of the patients of the different wards, and the various departments of the institution, your Committee received a special communication from the present the Board of Trustees of the Asylum, calling our attention to that portion of the Governor's last Annual Message transmitted to the present Legislature, in which it was stated that grave charges had been made against the late Resident Physician, Dr.

R. K. Reid. This communication also set forth that those charges had been specified and preferred against Dr. Reid, by Dr. Langdon, the present Resident Physician, and laid before the Board of Trustees, who requested us to proceed to an investigation of the same. Your Committee, therefore, in accordance with this request, and deeming it their duty so to do, entered into an examination of the charges so preferred, and devoted several days to a thorough and minute investigation of the same, during which time a large number of witnesses were examined; but after a thorough and minute investigation of all the charges preferred, your Committee are of the opinion that the evidence adduced was insufficient to sustain the charges herein referred to.

All of which is respectfully submitted.

A. R. MELONY,  
Chairman Senate Com.  
S. F. HAMM,  
Chairman Assembly Com.  
S. M. MILES,  
PHIL MOORE.

Mr. Waite, of the Hospital Committee, gave notice that on to-morrow he should submit the report of the minority, and on motion of Mr. McCallum, the report was laid on the table.

Mr. Coffroth offered the following resolution :

*Resolved*, That the Committee on the Judiciary be requested to report back the resolution now before them in reference to the election of officers of the Insane Asylum, on to-morrow morning.

Adopted.

Mr. Westmoreland introduced a bill for an Act entitled an Act to repeal an Act entitled an Act to amend an Act to provide for the Protection of Foreigners, and to define their liabilities and privileges, passed March 30th, 1853, and to revise the original Act, was read first and second times and referred to Judiciary Committee.

Mr. Crandall made the following report :

*Mr. President :*

Your Committee on Enrolled Bills have presented to his Excellency the Governor an Act to change the name of Edward C. Higginbottom to Edward Compton Howard.

Also, an Act to reduce the Salary of the County Judge of El Dorado County.

Also, an Act to further extend the Act concerning Corporations, passed April 22d, 1850.

Also, an Act to amend an Act entitled an Act to authorize certain officers and other persons to administer oaths, passed January 27th, 1853.

Also, an Act in addition to and explanatory of an Act for securing Liens to Mechanics and others.

Also, an Act relative to the Board of Supervisors of Santa Barbara County.

Also, an Act amendatory of an Act to provide for the Protection of Foreigners, and to define their liabilities and privileges.

D. CRANDALL,  
Chairman.

Mr. Melony made the following report :

*Mr. President :*

The Committee on Engrossed Bills have examined Senate Judiciary Committee's substitute for Senate bill No. 7, entitled an Act amendatory of and supplementary to an Act to exempt the Homestead and other property from forced sale in certain cases, passed April 21st, 1851, and find the same correctly engrossed.

A. R. MELONY,

March 3, 1857.

Chairman.

The following message was received from the Assembly :

*Mr. President :*

I am directed to inform the Senate that the Assembly on yesterday passed Assembly bill No. 138, an Act to amend an Act entitled an Act to incorporate the city of Nevada, approved April 19th, 1856.

Also, passed Assembly bill No. 194, an Act to fix the Compensation of County Judge and District Attorney of Calaveras County.

Also, passed Assembly bill No. 137, an Act to incorporate the town of Oroville.

W. CAMPBELL,

March 3, 1857.

Clerk of Assembly.

Assembly bill No. 138 was read first and second time and referred to Nevada Delegation.

Assembly bill No. 194 was read first and second times and referred to Calaveras Delegation.

Assembly bill No. 137 was read first and second times and referred to Butte Delegation.

Mr. Waite offered the following resolution :

*Resolved*, That the Secretary be instructed to request the Assembly to return Senate bill No. 71, an Act concerning Official Bonds, said bill not having been properly engrossed.

Adopted.

Mr. Merritt in the chair.

GENERAL FILE.

Senate bill No. 39, an Act to amend an Act entitled an Act to regulate the Settlement of the Estates of Deceased Persons, passed May 1st, 1851, and the Acts amendatory thereof, considered in Committee of the Whole, reported back with amendments, amendments adopted, bill read third time and passed.

Mr. Bell moved to adjourn, which was lost.

Assembly joint resolution No. 4, relative to a Pacific Railroad, was taken up.

Mr. Mandeville moved to strike out the word "honorable" and insert the word "constitutional."

Adopted.

Mr. Mandeville offered the following proviso at the end of the second resolution :

*Provided*, That nothing contained in these resolutions shall be so construed as to mean that the Congress of the United States possesses the power to carry on a general system of internal improvements within any State without their consent.

Mr. Bell moved to adjourn, upon which the ayes and noes were demanded by Messrs. McCallum, Fiske and Waite, with the following result :

AYES.

Messrs. Bell, De La Guerra, Dosh, Ferguson of Sacramento, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McGee, Melony, Soule, Taliaferro and Wilson—12.

NOES.

Messrs. Ashley, Burnett, Chase, Coffroth, Crandall, Fiske, Merritt, Mesick, Shaw, Sullivan, Waite and Woodworth—12.

So the Senate refused to adjourn.

Mr. Coffroth moved to indefinitely postpone the whole subject matter.

Pending discussion, Mr. Melony moved the Senate do now adjourn ; which was carried.

Approved March 4th, 1857.

S. H. DOSH,  
President Senate *pro tem*.

Attest :

TRO. WARD, Assistant Secretary.



## IN SENATE.

WEDNESDAY, March 4th, 1857.

Senate met pursuant to adjournment.

The President *pro tem.* in the Chair.

Roll called.

Journals of yesterday read and approved.

Mr. Shaw, Chairman of the Committee on Claims, made the following report:

*Mr. President:*

The Committee on Claims, to whom was referred the Act for the relief of E. H. Burns, for services in Indian War in Klamath county, report that they have complied with the intentions of the Senate, and recommend the passage of the accompanying act providing for the issuing of Indian War Bonds in payment of said claim.

WM. J. SHAW,  
Chairman.

Report accepted and bill placed on general file.

Mr. Ashley, Chairman of the Judiciary Committee, made the following report:

*Mr. President:*

The Judiciary Committee, to whom was referred Senate Bill No. 126, an Act supplementary to an act entitled "An Act to incorporate the city of Oakland," passed March 25th, 1854, have considered the same, and recommend its indefinite postponement.

Also, Senate Bill No. 58, an Act concerning chattel mortgages in this State, and recommend its indefinite postponement.

Also, Senate Bill No. 121, an Act enabling aliens to acquire and hold real property in this State, and recommend its indefinite postponement.

Also, resolution for a Joint Convention for the purpose of electing officers of the Insane Asylum, recommend that the words "Friday, the 6th," be stricken out and "Tuesday, the 10th," be inserted in their place, and that the resolution be adopted.

Also, Assembly Bill No. 132, an Act amendatory of and supplementary to, an Act in relation to personal mortgages in certain cases, passed May 11th, 1853, and recommend the passage of the bill with the following amendment:

SEC. 2d. Strike out from the word "any" to the word "in," embracing the 1st, 2d, 3d, 4th and 5th lines, and insert the following in place thereof: "In case of sale of the property mortgaged, the same may be redeemed."

Also, the Committee have examined and recommend the passage of Senate Bill No. 134, an Act to authorize Maria Ignacia, wife of Jarvier Alviso, and Maria Juano, wife of Jose Rachines, to sell and convey real estate.

All of which, is respectfully submitted.

D. R. ASHLEY,  
Chairman.

Mr. Ashley, Chairman of the Judiciary Committee, made the following report:

*Mr. President:*

The Judiciary Committee of the Senate, feeling that the Legislature of this State ought to express its earnest desire for the liquidation of all the public debts, and desiring to have this expression made unaffected by any questions of policy as to the mere mode and time of payment, offer the accompanying resolution, and unanimously and earnestly recommend its passage. The passage of this resolution, will simply show our abhorrence of repudiation, and our solicitude, in some mode to be hereafter adopted, to protect the honor and to vindicate the faith of our State.

All of which, is respectfully submitted.

D. R. ASHLEY,  
Chairman.

*Resolved, by the People of the State of California represented in Senate and Assembly, That the honor, credit and best interest of the State, require that the funded and other outstanding debts of the same, should be paid in good faith, and that immediate provision for such payment ought to be made.*

Report accepted and resolution taken up.

Mr. Shaw moved the adoption of the resolution—Mr. Norman objecting.

Mr. Ashley moved a suspension of the rules, which was put and carried.

Mr. McCallum offered the following amendment:

Insert as a title, "Concurrent Resolution concerning the Public Debt."

Adopted.

Mr. Norman offered the following amendment:

Add "by leaving the adoption or rejection of said debt to a vote of the qualified voters of this State."

Mr. Chase moved to lay the resolution and amendments on the table, which was put and lost.

The question recurring on Mr Norman's amendment, the ayes and noes were demanded by Messrs. Norman, Ferguson of Sacramento, and Merritt, and taken with the following result:

## AYES.

Messrs. Burnett, Bynum, Chase, Coffroth, Crandall, Ferguson of Sacramento, Johnson of Sacramento, Johnson of El Dorado, McGee, Melony, Norman, Taliaferro, Westmoreland and Wilson—14.

## NOES.

Messrs. Ashley, Bell, Carpenter, Cosby, Ferguson of Sierra, Fiske, Mandeville, McCallum, Merritt, Mesick, Shaw, Soule, Sullivan, Waite, Walkup and Woodworth—16.

So the amendment was lost.

Mr. Norman moved to take up the special orders of the day.

Mr. Mandeville moved to lay them on the table, which was carried.

Mr. Walkup moved the previous question on the Concurrent Resolution; upon which, the ayes and noes were demanded by Messrs. Ashley, Cosby and Coffroth, and taken with the following result:

## AYES.

Messrs. Ashley, Bell, Carpenter, Chase, Cosby, Ferguson of Sierra, Fiske, McCallum, Merritt, Mesick, Soule, Sullivan, Taliaferro, Waite, Walkup, Westmoreland and Woodworth—17.

## NOES.

Messrs. Burnett, Bynum, Coffroth, Crandall, Ferguson of Sacramento, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McGee, Melony, Norman and Wilson—13.

Mr. Shaw declined voting.

So the call for the previous question was sustained.

The question being "shall the main question be now put," the ayes and noes were demanded by Messrs. McCallum, Merritt and Mandeville, and taken with the following result:

## AYES.

Messrs. Ashley, Bell, Burnett, Bynum, Carpenter, Chase, Coffroth, Cosby, Crandall, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, McGee, Melony, Merritt, Mesick, Shaw, Soule, Sullivan, Taliaferro, Waite, Walkup, Westmoreland, Wilson and Woodworth—30.

Mr. Norman declined voting.

So the resolution was adopted.

Mr. Coffroth, Chairman of the Committee on Public Lands, made the following report:

*Mr. President:*

The Committee on Public Lands, to whom was referred an Act to cede to the town of Eureka certain property, have had the same under consideration and recommend its passage after the adoption of an amendment herewith submitted.

JAS. W. COFFROTH,

Chairman.

Report accepted and bill placed on calendar.

Mr. Waite, of the Joint Special Hospital Committee, made the following Report:

#### MINORITY REPORT.

In accordance with the desire of the Legislature, the Committee repaired to Stockton, and began their investigation on the 21st of January. Several days were devoted to an examination into the affairs of the Asylum, from which, to the mind of the undersigned, the following facts were evolved:

The institution, under the present Resident Physician, Dr. Langdon, and the acting Board of Trustees, is creditably managed, medically and financially. The halls, rooms and bedding are kept scrupulously clean and neat; and, from the best information obtained, the food of the inmates is served up in a respectable and wholesome manner. Perhaps there is not a sufficiency of the proper kinds of aliment allowed the inmates, but it is more owing to the appropriation of the State, than the fault of the dispensers of the State's charity. The sum allowed the Asylum per annum is not sufficient to furnish the class of edibles which a physician, jealous of his fame, requires to feed his patients. But as far as medical skill and attention to an unfortunate class can go, circumscribed by pecuniary means, the undersigned is convinced that no effort is spared by the Superintendent, his attentive and experienced assistant, and the accomplished matron, to restore reason to its wonted channels, or failing in which, to administer to a mind diseased, with the true spirit of the philanthropist, full of sympathy and kindness.

In passing through the various wards the visitor is struck with the low and degraded types of humanity, compared with the Asylums in the older States, which everywhere meet his eye. With but few exceptions, there is nothing but bestiality, want of intellectual strength, or idiocy, in the Asylum at Stockton.

A large proportion of the whole number of patients are foreigners of every hue, from almost every country on the habitable globe, and as different in their mental ailments as the climates from whence they came. The persons who have such objects of commiseration in charge should be possessed of the finer and ennobling feelings that adorn our race, joined to a scientific mind, a determined purpose, and an exalted ambition. The position is one which none but a true philanthropist should covet, none but a tried one should gain. An institution which has cost the State upward of one hundred thousand dollars per annum from its founding to the present time, should be presided over by a gentleman of the first attainments, the best impulses, and of peculiar qualifications. It is due, both to the State that bankrupts its exchequer to sustain a monument of God-like charity, and the unfortunate objects who so piteously call upon science and humanity.



Were it compatible with the finances of the State, the undersigned would recommend that the patients of the Asylum be better clothed, and in a neat and uniform manner.

One recommendation alone the undersigned would more particularly press upon your consideration than any other in the present embarrassed condition of the Treasury. A wooden building, occupied by the Resident Physician, of very combustible material, stands within twenty feet of the fine and imposing structure which is at once the pride and ornament of Stockton and the worthy object of the bounty of a beneficent State. A stray or careless spark is liable to destroy, in one short hour, a structure and property for which the State has expended near a quarter of a million of dollars. A small amount should be immediately appropriated for the purpose of removing the wooden dwelling to a further distance, that the danger from fire may be lessened.

For other recommendations as to the needs of the Asylum, the undersigned would refer to the Report of the Trustees, the elaborate annual statement of the Resident Physician, and the Majority Report of the Committee.

The undersigned is now brought to the point where he must express his most unqualified dissent from the majority report of the Committee, and he cannot here refrain from asserting his astonishment that palpable and glaring wrongs should have been glided over by the pen, that ought to have told the discovery of revolting, if not culpable practices.

Among the duties imposed upon the Committee, was the investigation of charges against the conduct and management of the Resident Physician, Dr. Reid.

Believing that an institution designed for the greatest good to an unfortunate class of fellow-beings, should be high above the reach of political influences or changes, and firmly impressed with the wisdom, as well as policy, of retaining an honest, competent and faithful public servant—as every report, coming even from his political enemies, pronounced the former Resident Physician to be—it will be recollected that the undersigned turned a deaf ear to party at the last session of the Legislature, and voted to continue, as he trusted, a meritorious officer in a place he was reported to be so eminently qualified to fill.

The astonishment and chagrin of the undersigned, on investigating the management of the former Resident Physician, to know that the undersigned had unwittingly been the means in part of continuing a false guardian of the public weal, and a false apostle of humanity in power—was only exceeded by the astonishment he felt at the strange report of the majority of the Committee.

How any man or set of men, after seeing and hearing the evidence produced before the Committee, can come to the conclusion that the charges against the former Resident Physician are unfounded, and that he is entitled to the meed of praise for his official career, can only be accounted for in the overwhelming popular sentiment of the city of Stockton which the Committee may not be able to withstand.

The facts are stubborn, and to these we come. Dr. Reid is charged with drawing pay from the State for certain persons as employees after such persons had long been discharged or absent.

The evidence of Dr. Cowan, the Visiting Physician under Dr. Reid, proves that one Creaner, an employee, for whom pay was drawn to the 1st of October last, had not been about the premises for several weeks anterior to that date. Dr. Cowan's testimony is corroborated by others; and, in the opinion of the undersigned, still stronger evidence on this point might have been obtained but for a new principle of law established by the Committee.

On a Mr. Driscoll being introduced as testimony, to prove that Creaner and

others were away for some time prior to the 1st of October, it was decided by the Committee that no person who had been an inmate of an Insane Asylum could be a competent witness, until after the expiration of two years from his discharge, except upon the opinion of medical men, after an examination, that the witness is sane and competent to testify.

Mr. Driscoll had been so unfortunate as to lose his reason, had been an inmate of the Asylum, but was discharged by Dr. Reid early in August last, as a sane man. But this strange ruling of the Committee Court is not more remarkable than the deductions of the same body from the evidence on this charge against Dr. Reid, for the only rebuttal evidence against that of Dr. Cowan and others, is a receipt purporting to be signed by Creaner, acknowledging having received his pay up to the 1st of October. Thus the Committee have taken the anomalous position that the sworn deposition of a man once insane is worthless on one side, while the written, unattested signature of Creaner, a man subject to incurable mania, is good on the other. In this manner the first charge against the former Resident Physician is pronounced unfounded!

In relation to the charge of removing and appropriating property belonging to the State, the undersigned has to say, simply, that in the Report of Dr. Reid, made to the last Legislature, "a cabinet, containing above one hundred species of birds, fifteen species of animals, and a fine collection of reptiles, shells and minerals," is reported with considerable unction. This cabinet, together with the cases, was removed, and is now in the possession of Dr. Reid. The evidence goes to show that a portion of the animals, at least, were stuffed and preserved by Lascars, in the pay of the State; and it cannot be denied that the State paid fifty dollars for the cases. Dr. Reid claims the property as his own. The query may be pertinently asked: Would the Resident Physician be likely to report his private property in enumerating the property of the State in an Annual Report? Upon this point, as well as of the evidence taken before the Committee, relative to the removal of other articles from the Asylum, the undersigned will allow the curious to judge for themselves. There is much to excite suspicion, if not in the character of positive proof.

One of the grave charges against the former Resident Physician, Dr. Reid, is, that his reports to the Legislature are false, and that the number of deaths at the Asylum, while the same was presided over by Dr. Reid, were much greater than represented in those reports. On this point the evidence is conclusive.

The Asylum was removed to its present site on the 8th day of October, 1853, and from that date the burials upon the Asylum grounds commenced. Dr. Reid, in his first report thereafter, gives the number of the deaths during the last three months of the year at seven; for the year 1854, twenty-one; for 1855, eighteen; and in a statement given the Committee, for the year 1856, up to 1st of October, when he was succeeded by Dr. Langdon, the number of deaths at the Asylum is stated at nineteen, making the total of deaths under the entire administration of Dr. Reid sixty-five, according to his own showing. He acknowledges there were sixty or sixty-one graves on the Asylum grounds at the time Dr. Langdon succeeded him.

Now, the deposition hereto appended, of Mr. Bond, City Sexton of Stockton, shows that thirty-three deceased persons from the Asylum were buried by him in the City Cemetery, leaving but thirty-two to be interred on the Asylum grounds. But there are sixty-one graves, and to make the evidence still more damnable, the Senate portion of the Committee saw several graves open, and in all but one there were two coffins or boxes in each, and in each of the four top boxes were found the remains of two persons placed heads and points. These facts can be attested to by at least fifty citizens of the city of Stockton. These

graves, it is not denied, were made during the administration of Dr. Reid, and the whole appearance of the graves, the boxes and the remains, seem to preclude the possibility of a design on the part of any one to deceive the Committee.

Dr. Reid, in his sworn statement in regard to this point, *adds* the number sworn to by Mr. Bond to the number called for in his reports—thus impeaching the accuracy of his own reports to the Legislature; for if both Dr. Reid's reports and the accounts of Mr. Bond be true, then at least thirty of the insane have been buried alive—a proposition too monstrous to be seriously entertained.

In conclusion, the undersigned would say that abundant material is at hand to make a longer and more forcible report, but the limited time allowed him to write a minority report, compels him to be brief. He, however, refers to the evidence taken by the Committee, which ought to be published. It is important that the people should know how an institution on which the State has expended over one-half million dollars, has been managed.

Respectfully submitted,

E. G. WAITE.

Report accepted.

Mr. Mandeville moved to take from the table the majority report of the Joint Special Hospital Committee, which was carried.

Mr. Mandeville then moved to refer both reports to the Joint Committee on Printing. After much debate, Mr. Mandeville withdrew his motion.

Mr. McCallum renewed the motion.

Mr. Melony moved to refer both reports to the Judiciary Committee.

Mr. Coffroth moved to amend "with special instructions to report back what proper and legal portions of the testimony should be printed," which was accepted by Mr. Melony.

The question recurring on the resolution as amended, was put and lost.

Question on Mr. McCallum's motion, the ayes and noes were demanded by Messrs. Coffroth, Melony and Fiske, and taken with the following result:

AYES.

Messrs. Bynum, Carpenter, Coffroth, Dosh, Ferguson of Sacramento, Fiske, Johnson of Sacramento, McCallum, McGee, Melony and Soule—11.

NOES.

Messrs. Bell, Burnett, Cosby, Crandall, De La Guerra, Ferguson of Sierra, Johnson of El Dorado, Merritt, Mesick, Norman, Shaw, Sullivan, Taliaferro, Waite, Westmoreland, Wilson and Woodworth—18.

So the motion was lost.



Mr. Westmoreland moved to print 240 copies of both reports and the entire evidence.

Mr. Coffroth moved to amend by printing 480 copies.

The question being put on the motion of Mr. Westmoreland, was carried.

Mr. Ferguson of Sacramento, moved to take from table Senate Bill No. 54, an Act to grant the right to construct a bridge across the Sacramento river between the city of Sacramento and the town of Washington, with substitute.

The question being on a suspension of the rules, was put and carried.

Mr. McCallum moved to make the bill and substitute the special order of the day for Friday next, at 12 o'clock, which was lost.

M. McCallum then moved the indefinite postponement of the bill and substitute; upon which, the ayes and noes were demanded by Messrs. Johnson of Sacramento, McCallum and Merritt, and taken with the following result:

#### AYES.

Messrs. Carpenter, Johnson of Sacramento, Mandeville, McCallum, Norman and Shaw—6.

#### NOES.

Messrs. Bell, Burnett, Bynum, Chase, Coffroth, Cosby, Crandall, De La Guerra, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Johnson of El Dorado, McGee, Melony, Merritt, Mesick, Soule, Sullivan, Taliaferro, Westmoreland, Wilson and Woodworth—22.

So the motion was lost.

The question being upon the adoption of the substitute, was put and lost.

The bill was then considered in Committee of the Whole, Mr. Mandeville in the chair. After some time spent in consideration of the bill and amendments, the Committee rose and reported the same back.

In Senate, Mr. McCallum offered the following as the last section to the bill :

"Nothing in this Act shall be so construed as to repeal or alter the law now in force requiring licenses for keeping bridges and ferries."

Mr. Coffroth moved to strike out the seventh and eighth sections, which was carried

Mr. Dosh moved the previous question, which was sustained.



The question being "Shall the main question be now put," was put and carried.

The amendments of Committee of the Whole were concurred in.

Question recurring on the adoption of Mr. McCallum's amendment for the last section, the ayes and noes were demanded by Messrs. McCallum, Carpenter and Soule, and taken with the following result :

AYES.

Messrs. Carpenter, Mandeville, McCallum, Mesick, Shaw and Woodworth—6.

NOES.

Messrs. Bell, Burnett, Bynum, Chase, Coffroth, Cosby, Crandall, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Johnson of Sacramento, Johnson of El Dorado, McGee, Melony, Merritt, Norman, Soule, Taliaferro, Westmoreland and Wilson—20.

So the amendment was lost.

Mr. Coffroth moved that the rules be suspended, bill considered engrossed and read a third time.

The Chair decided the motion out of order.

Mr. Coffroth appealed from the decision of the Chair.

The Chair stated that under the operation of the previous question no appeal could be taken.

Mr. Coffroth appealed from the decision of the Chair.

The Chair decided that the appeal could not be considered.

The question being "Shall the bill be ordered engrossed," the ayes and noes were demanded by Messrs. McCallum, Shaw and Carpenter.

The President in the Chair.

The ayes and noes were taken with the following result :

AYES.

Messrs. Bell, Bynum, Coffroth, Cosby, Crandall, De La Guerra, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Johnson of El Dorado, McGee, Melony, Merritt, Mesick, Soule, Taliaferro, Westmoreland, Wilson and Woodworth—19.

NOES.

Messrs. Carpenter, Johnson of Sacramento, Mandeville, McCallum, Norman and Shaw—6.

Messrs. Burnett and Chase declined voting.

So the bill was ordered engrossed.

The Secretary issued subpoenas to the following persons in the case of the impeachment of Henry Bates, late Treasurer of State: Saml. Knight, E. A. Rowe, A. B. McNiel, Jas. M. Rhodes, T. R. Bunker, W. B. Rochester, Jas. Haworth, A. G. Richardson, J. Neely Johnson, David Maddux and S. A. McMeans, of Sacramento; Ed. Jones, L. McLane, Jr., R. N. Wood, E. W. Tracy, Archibald Woods, David Brigham, jr., C. C. Bowman, Jas. G. Stebbins, S. Hydenfeldt and J. C. Palmer, of San Francisco; Treasurers of El Dorado, Amador, Sierra, Yolo and Yuba counties, on behalf of Henry Bates, and placed in the hands of the Sergeant-at-Arms.

On motion of Mr. Woodworth, the Senate adjourned.

Approved March 5th, 1857.

R. M. ANDERSON,  
President Senate.

Attest :

TRO. WARD, Assistant Secretary Senate.

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## IN SENATE.

THURSDAY, March 5th, 1857.

Senate met pursuant to adjournment.

President in the Chair.

Roll called.

Journals of yesterday read and approved.

Mr. McCallum moved that the rules be suspended, and that the rules of the Committee on Impeachment be taken up, which was carried.

Mr. Shaw offered the following amendment to the rules:

No question which may arise during the progress of the trial, and after the same is commenced, shall be argued by more than one person on the part of the people, and one on the part of the defence; nor shall more than ten minutes be occupied in any such discussion without the consent of two-thirds of the Senators present. And all such questions shall be decided by ayes and noes, without debate; unless a majority of two-thirds of the Senate shall otherwise direct; nor then, except in the presence of the officers of the Senate only.

Mr. Coffroth moved to strike out the words "more than ten minutes," which was lost.

Mr. Coffroth moved to strike out "two-thirds" and insert "a majority of the Senators present," which was carried.

Mr. McCallum moved to strike out all after the word "direct," which was lost.

Mr. Chase moved to insert after "discussion" the words "by each party," which was carried.

The question being on the adoption of the resolution as amended, was put.  
Resolution adopted.

On motion of Mr. Carpenter, it was ordered that the usual number of copies of the rules be printed.

Mr. Melony, Chairman of the Committee on Engrossed Bills, made the following report:

*Mr. President :*

The Committee on Engrossed Bills, have examined Senate Bill No. 54, a Bill entitled "An Act to grant the right to construct a bridge across the Sacramento river between the city of Sacramento and the town of Washington, to certain persons therein named," and find the same correctly engrossed.

A. R. MELONY,  
Chairman.

Mr. Ferguson of Sacramento moved that the rules be suspended and the bill considered now; upon which the ayes and noes were demanded by Messrs. McCallum, Carpenter and Mesick, with the following result:

#### AYES.

Messrs. Bell, Burnett, Bynum, Chase, Coffroth, Cosby, Crandall, De La Guerra, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Johnson of El Dorado, Mandeville, McGee, Melony, Merritt, Sullivan, Taliaferro, Walkup, Westmoreland, Wilson and Woodworth—23.

#### NOES.

Messrs. Carpenter, Johnson of Sacramento, McCallum, Mesick, Norman, Shaw and Soule—7.

So the motion prevailed.

Mr. McCallum moved to indefinitely postpone the bill.

Pending which, the President announced the hour for the organization of the Senate as a High Court of Impeachment, and announced all Executive and Legislative business suspended.

## HIGH COURT OF IMPEACHMENT.

SENATE CHAMBER, Thursday, March 5th, 1857.

*The State of California vs. Henry Bates.*

In accordance with a resolution adopted by the Senate of the State of California, on the 20th day of February, A. D. 1857, the Senate convened as a High Court of Impeachment to try Henry Bates, Treasurer of the State of California, upon charges preferred against him by the House of Assembly of the State of California for misdemeanors in office.

The President of the Senate, R. M. Anderson, was sworn by the Secretary.

The roll of members being called, the following Senators appeared and took the oath required, which was administered by the President:

Messrs. Bell, Burnett, Bynum, Carpenter, Chase, Coffroth, Cosby, Crandall, De La Guerra, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, McGee, Melony, Merritt, Mesick, Norman, Shaw, Soule, Sullivan, Taliaferro, Waite, Walkup, Westmoreland, Wilson and Woodworth.

The Sergeant-at-Arms appeared at the desk of the Secretary and subscribed to the following oath:

STATE OF CALIFORNIA, ss.

I, Alex Hunter, do solemnly swear that the return made and subscribed by me upon the process issued on the 23d day of February, 1857, by the Senate of the State of California against Henry Bates, is truly made, and that I have performed said services as therein described. So help me God.

ALEX HUNTER,

Sergeant-at-Arms of Senate.

Whereupon the Sergeant-at-Arms made the following announcement by order of the President:

Oyez ! Oyez ! Oyez ! All persons will take notice that the High Court of Impeachment of the State of California for the trial of Henry Bates is now in session, and are commanded to keep silence on pain of imprisonment.

The Secretary was directed to inform the Assembly "That the Senate is organized as a High Court of Impeachment, and is ready to proceed upon the impeachment of Henry Bates, in the Senate Chamber." Also, that seats were prepared for the Managers on the part of the Assembly. The Managers on the part of the Assembly, together with Mr. Wallace, the Attorney General, appeared and took the seats assigned them. By order of the President, the



Sergeant-at-Arms called to the bar of the Senate Henry Bates, the defendant. Mr. Goodwin, Senator from Yuba, appeared and took the oath required. Whereupon the said Henry Bates, accompanied by his counsel, Messrs. Botts, Winans and Baker, appeared and took the seats assigned them.

Mr. Winans, one of the counsel for the defence, read an affidavit for a continuance, which was signed by his counsel, and on behalf of the State by Mr. McKune.

Mr. Coffroth offered the following resolution :

*Resolved*, That the Attorney General be requested to conduct, in conjunction with the Committee of the Assembly, the matter of the impeachment of Henry Bates, late Treasurer of State.

Mr. Botts, one of the counsel for defense, objected to any Senator making a motion while sitting in Court, unless sitting in secret session.

Whereupon Mr. Coffroth withdrew the resolution.

Mr. Catlin objected to any further proceedings until the defendant plead to the articles of impeachment, and moved that defendant answer.

Mr. McKune offered the following order :

"It is ordered by the Court that the defendant, Henry Bates, do plead to the articles of impeachment presented against him, before he shall be allowed to appear for any other purpose."

Whereupon Mr. Botts renewed his objection.

Question, "Is the objection well taken," was put and decided in the negative by the following vote :

**AYES.**

Messrs. Burnett, Goodwin, Sullivan and Taliaferro—4.

**NOES.**

Messrs. Bell, Bynum, Carpenter, Chase, Coffroth, Cosby, Crandall, De La Guerra, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, McGee, Melony, Merritt, Mesick, Norman, Shaw, Soule, Waite, Walkup, Wilson and Woodworth—27.

Question on adopting the resolution of Mr. McKune was taken and carried by the following vote :

**AYES.**

Messrs. Bell, Burnett, Bynum, Carpenter, Chase, Coffroth, Cosby, Crandall, De La Guerra, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Johnson of El Dorado, McCallum, Soule, Taliaferro, Walkup, Westmoreland, Wilson and Woodworth—23.

## NOES.

Messrs. Mandeville, McGee, Merritt, Mesick, Shaw and Waite—6.

Mr. Baker moved for further time to answer.

Question, "Will the Court entertain the motion," was taken and lost by the following vote :

## AYES.

Messrs. Chase, Cosby, Dosh, Ferguson of Sacramento, Fiske, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Mandeville, Melony, Shaw, Soule and Westmoreland—13.

## NOES.

Messrs. Bell, Burnett, Bynum, Carpenter, Coffroth, Crandall, De La Guerra, Ferguson of Sierra, McCallum, McGee, Merritt, Mesick, Norman, Sullivan, Taliaferro, Waite, Walkup, Wilson and Woodworth—19.

Mr. Merritt offered the following:

That the following order be vacated, viz: "It is ordered by the Court that the defendant, Henry Bates, do plead to the articles of impeachment presented against him before he shall be allowed to appear for any other purpose," which was rejected by the following vote:

## AYES.

Messrs. Mandeville, Melony, Merritt, Mesick, Shaw, Soule, Sullivan, Waite and Westmoreland—9.

## NOES.

Messrs. Bell, Burnett, Bynum, Carpenter, Chase, Coffroth, Cosby, Crandall, De La Guerra, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Johnson of Sacramento, Johnson of El Dorado, McCallum, McGee, Norman, Taliaferro, Walkup, Wilson and Woodworth—22.

Whereupon the defendant, by his counsel, presented the following answer:

IN THE SENATE OF THE STATE OF CALIFORNIA, MARCH 5, 1857.

*State of California vs. Henry Bates, upon Impeachment of the Assembly of the State of California, of Misdemeanors in Office.*

The aforesaid Henry Bates, saving and reserving to himself all exceptions to the imperfections, uncertainty and insufficiency of the articles of impeachment by Jos. W. Winans, C. E. Botts and E. D. Baker, his attorneys, comes and defends the wrong and injury, and says that he objects to the sufficiency of the said impeach-

ment, and every and all article and articles therein, and says that he, to the said impeachment, and all and every of the articles thereof, ought not to be compelled to answer, because he says that by the third (3d) section of the first (1st) article of the Constitution of the State of California, it is declared and provided that "the right of trial by jury shall be secured to all, and remain inviolate forever;" and that by section eight of the same article first of said Constitution, it is further declared and provided that "no person shall be held to answer for an infamous crime, (except in case of impeachment,) unless on presentment or indictment of a grand jury."

"No person shall be subject to be twice put in jeopardy for the same offense," and that for the purpose of designating what manner of persons shall be included within the exception of said section eight of said article first of the Constitution, and shall be liable to impeachment, it is further declared and provided in section nineteenth of article fourth of said Constitution, that the Governor, Lieutenant Governor, Secretary of State, Controller, Treasurer, Attorney General, Surveyor General, Justices of the Supreme Court and Judges of the District Courts, shall be liable to impeachment for any misdemeanor in office; but judgment in such cases, shall extend only to removal from office and disqualification to hold any office of honor, trust or profit, under the State; but the party convicted or acquitted, shall, nevertheless, be liable to indictment, trial and punishment, according to law.

That proceedings by impeachment are provided and permitted by the Constitution of said State and by the laws thereof, established under said Constitution, only on charges of misdemeanors in office, alleged to have been committed by the officers of the government of said State, whose official titles are enumerated as above, in said section nineteen of article fourth of said Constitution.

That although it is true that he, the said Henry Bates, was Treasurer of the said State at the several periods of time in the said articles of impeachment referred to, yet that he, the said Henry Bates, is not now Treasurer of said State, nor an officer thereof in any capacity whatever, but simply a private citizen thereof; and that he, the said Henry Bates, was not State Treasurer, nor any other officer of said State, at the time when he was impeached before this honorable Senate, nor at the time when said articles of impeachment, as adopted by the said Assembly of said State, were presented to this honorable Senate, nor at the time when said articles of impeachment were prepared and adopted by the said Assembly; and, further, that said Henry Bates was not impeached for misdemeanor in office while holding the said office of State Treasurer of said State, nor until after he had resigned the same, and his resignation had been duly accepted by the Governor of said State, and said office had thereby become vacant, and a successor of said Henry Bates therein had been duly appointed by said Governor.

That proceedings by impeachment are not provided or permitted by the said Constitution, or by the laws established thereunder, against any of the ex-officers of said State who have once held any of the offices enumerated in said section nineteen of article fourth of said Constitution, but who have been removed from or vacated the same by resignation, or otherwise, after such removal or vacation of office, nor even for misdemeanors alleged to have been committed by such ex-officers, or any of them, while holding and discharging the obligations of their office.

That the courts of common law, of a criminal jurisdiction of the said State in which the said offenses recited in said articles are alleged to have been committed, are competent to the cognizance, prosecution and punishment of the said misdemeanors, if the same have been perpetrated as is suggested and charged by the said articles, which, however, he utterly denies.

That two indictments have been found against him by the Grand Jury of the county of Sacramento, for the same offenses as are charged against him by said articles of impeachment, and are now duly pending, and the said criminal charges

will be duly tried in the appropriate Criminal Court of said county, the said Henry Bates having been required to give bail in the amount of \$20,000 to appear and answer upon his arraignment under said indictments, although the said Henry Bates would not have been, and is not now, liable to said indictments, nor to a trial thereunder, if this Honorable Senate has jurisdiction of said impeachment, until a trial under said impeachment has been duly had, and he had been either convicted or acquitted thereof; all of which the said Henry Bates is ready to verify, and prays judgment whether this high Court will have further cognizance of this suit and of the impeachment, and whether to the said articles of impeachment, so as aforesaid preferred by the said Assembly, he ought to be compelled to answer.

JOS. W. WINANS,  
C. T. BOTTS,  
E. D. BAKER.

On motion of Mr. McKune, ordered that the Court adjourn until to-morrow at 2 o'clock P. M., by the following vote.

AYES.

Messrs. Burnett, Bynum, Chase, Coffroth, Cosby, Dosh, Ferguson, of Sacramento, Ferguson of Sierra, Johnson of Sacramento, Johnson of El Dorado, Mandeville, Melony, Merritt, Mesick, Norman, Soule, Sullivan, Walkup, Westmoreland, Wilson, Woodworth—21.

NOES.

Messrs. Bell, Carpenter, Crandall, Fiske, Goodwin, McCallum, Shaw, Taliaferro and Waite—9.

Approved March 6th, 1857.

R. M. ANDERSON,  
President Senate.

Attest:

TRO. WARD, Assistant Secretary Senate.

IN SENATE.

The President in the Chair.

Mr. Ferguson of Sacramento claimed the attention of the Chair.

Mr. McCallum moved that the Senate adjourn.

Mr. Ferguson rose to a point of order: he was in possession of the floor when the motion to adjourn was made.

Chair decided point of order well taken.

Mr. Coffroth in the Chair.



Mr. Ferguson moved the previous question, being on the motion of Mr. McCallum to indefinitely postpone Senate bill No. 54; which was sustained.

The question being: Shall the main question be now put?—the main question being the indefinite postponement of the bill—the ayes and noes were demanded by Messrs. Carpenter, Johnson of Sacramento and Westmoreland, and taken with the following result:

YEAS.

Messrs. Carpenter, Johnson of Sacramento, Mandeville, McCallum, Mesick, Norman. Shaw, Waite and Walkup—9.

NOES.

Messrs. Bell, Burnett, Bynum, Coffroth, Cosby, Crandall, De La Guerra, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Johnson of El Dorado, McGee, Melony, Merritt, Soule, Sullivan, Taliaferro, Westmoreland and Wilson—19.

So the motion to indefinitely postpone was lost.

The bill was then read a third time.

The question being on the final passage of the bill, the ayes and noes were demanded by Messrs. Carpenter, Johnson of Sacramento, and Mandeville, and taken with the following result:

AYES.

Messrs. Bell, Bynum, Coffroth, Cosby, Crandall, De La Guerra, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Johnson of El Dorado, McGee, Melony, Merritt, Soule, Sullivan, Taliaferro, Westmoreland and Wilson—18.

NOES.

Messrs. Burnett, Carpenter, Goodwin, Johnson of Sacramento, Mandeville, McCallum, Mesick, Norman, Shaw, Waite and Walkup—11.

So the bill was passed.

Mr. Shaw rose to an explanation in regard to a proposition sought to be made in Court.

Mr. Norman rose to a point of order. The Court of Impeachment was the proper place to make the proposed explanation, not the Senate.

The question being upon Mr. Shaw's question of privilege, "Shall the Senator proceed," the yeas and nays were demanded by Messrs. Norman, Burnett and Melony, and taken with the following result:

## AYES.

Messrs. Bell, Bynum, Carpenter, De La Guerra, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, McGee, Mesick, Soule, Sullivan, Taliaferro, Waite, Walkup, Westmoreland and Woodworth—21.

## NOES.

Messrs. Burnett, Cosby, Crandall, Norman and Wilson—5.

Messrs. Melony, Merritt and Shaw declined voting.

So leave was granted.

Mr. Taliaferro moved to take up concurrent resolution fixing a day for the election of officers to the State Insane Asylum.

Mr. Westmoreland moved a suspension of the rules, upon which the ayes and noes were demanded by Messrs. Norman, Melony and Carpenter, and taken with the following result :

## AYES.

Messrs. Chase, Coffroth, Cosby, Ferguson of Sacramento, Fiske, Johnson of El Dorado, Merritt, Sullivan, Taliaferro and Westmoreland—10.

## NOES.

Messrs. Bell, Burnett, Bynum, Carpenter, Crandall, De La Guerra, Dosh, Ferguson of Sierra, Goodwin, Johnson of Sacramento, McCallum, McGee, Melony, Mesick, Norman, Shaw, Soule, Waite, Walkup, Wilson and Woodworth—21.

So the Senate refused to suspend the rules.

Mr. Dosh, of the Shasta Delegation, reported back Senate bill No. 97, an Act to amend an Act entitled an Act concerning the Board of Supervisors of Plumas County, approved February 4th, 1857, and recommended a Committee of three to confer with a like Committee of the Assembly upon the bill.

Report accepted, and recommendation of Committee concurred in.

The Chair announced as the Committee on the part of the Senate, Messrs. Dosh, Walkup and Bell.

Mr. Wilson made the following report:

*Mr. President:*

Your Special Committee, to whom was referred Assembly bill No. 156, an Act concerning the Boundary Lines of the County of San Bernardino, has had the same under consideration, and return the same back without amendment, and recommend its passage.

D. R. WILSON,  
Of Committee.

Report accepted, and bill placed on general file.

Mr. Norman, of the Calaveras Delegation, made the following report:

*Mr. President :*

The Calaveras Delegation, to whom was referred Assembly bill No. 194, also Senate bill No. 133, have had the same under consideration, and recommend their passage without amendments.

W. B. NORMAN.

Report accepted, and bills placed on the calendar.

Mr. McGee made the following report:

*Mr. President :*

The Committee to whom was referred an Act to Incorporate the Town of Oroville, report the same back, and recommend its passage without amendments.

J. B. MCGEE.

Report accepted, and bill placed on the calendar.

Mr. Sullivan of the San Francisco Delegation made the following report:

*Mr. President :*

The San Francisco Delegation, to whom was referred Senate bill No. 117, entitled an Act to authorize the execution of a bond under an Act for funding the debt of the City of San Francisco, passed May 7th, 1855, have examined the same, and respectfully recommend its passage.

E. L. SULLIVAN,  
For Delegation,

Report accepted, and bill placed on calendar.

Mr. Bynum of the Committee on Counties and County Boundaries, made the following report:

*Mr. President :*

The Committee on Counties and County Boundaries have had under consideration Senate Joint Resolution No. 19, relative to the map of the State of California, drawn by G. H. Goddard, Esq., and published by Britton & Ray, together with the accompanying map, alluded to in said resolutions, and after a thorough and careful examination of the same, your Committee are unanimous in the conclusion that said map more nearly approximates to a perfect and complete topographical delineation of the State of California and adjoining Territories, than any other work of like description now before the public, necessarily constituting the same a production of great public utility.

In view of the manifest merit and utility of the work or map in question, your Committee report the said resolution back, and unanimously recommend the passage of the same without amendments.

S. BYNUM,  
Chairman.

Report accepted, and resolution placed on calendar.

The following messages were received from the Governor:

EXECUTIVE DEPARTMENT,  
Sacramento, Cal., March 5, 1857. }

*To the Senate of California:*

I have this day approved "An Act amendatory of an Act amendatory of an Act to provide for the protection of Foreigners, and to define their liabilities and privileges, passed March 13, 1853, passed May 13, 1854."

J. NEELY JOHNSON.

EXECUTIVE DEPARTMENT,  
Sacramento, March 4, 1857. }

*To the Senate of California:*

I have this day approved the following Acts:

An Act relative to the Board of Supervisors of Santa Barbara County.

An Act to amend an Act entitled "An Act to authorize certain officers and other persons to administer oaths, passed January 27, 1853"

An Act in addition to and explanatory of an Act for securing liens to mechanics and others, passed April 19, 1856.

An Act to reduce the salary of the County Judge of El Dorado County.

An Act to change the name of Edward C. Higginbottom to Edward Compton Howard.

J. NEELY JOHNSON.

The following message was received from the Assembly:

*Mr. President:*

In accordance with the request of the Senate, bill No. 71, an Act concerning official and other Bonds, is herewith returned.

W. CAMPBELL,  
Clerk Assembly.

On motion of Mr. Mandeville, the Secretary was authorized to place Senate bill No. 71 in the hands of the engrossing clerk for correction.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly on the 2d inst., concurred in Senate amendments to Assembly bill No. 44, an Act relating to the Officers of San Mateo County, and prescribing their duties.



Also, in Senate amendments to title of Assembly bill No. 171, an Act to authorize the Board of Supervisors of Stanislaus County to levy an additional tax for County purposes.

Also, on yesterday, concurred in Senate amendments to Assembly bill No. 114, an Act to prevent the owners of saw-mills and other persons from obstructing the channels of Humboldt Bay and Harbor.

Also, to Assembly bill No. 135, an Act concerning Tenants in common, joint Tenants, and Copartners.

Also, concurred in Senate concurrent resolution relative to the Translation of the Laws into Spanish.

Also, passed Senate bill No. 76, an Act to abolish the offices of Directors of the State Prison.

J. W. SCOBEEY,  
Assistant Clerk.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly on yesterday adopted Senate concurrent resolution relative to State Debts.

Also, passed Assembly bill No. 117, an Act to authorize the Mayor and Common Council of the city of Marysville to take and subscribe one hundred thousand dollars to the capital stock of the Benicia and Marysville Railroad, or other Railroad Company, and to provide for the payment of the same, and other matters relating thereto.

W. CAMPBELL,  
Clerk of Assembly.

Assembly bill No. 117 was read first and second times and referred to the Yuba Delegation.

The following message was received from the Assembly :

*Mr. President:*

I am directed to inform the Senate that the Assembly on to-day adopted the following resolution :

*Resolved*, That this House respectfully recommend and suggest to the Senate that the business of their body, as a Court of Impeachment, be conducted at evening sessions ; and for the purpose of holding their evening sessions, the use of the Assembly Hall is hereby tendered said Senate.

W. CAMPBELL,  
Clerk Assembly.

Placed on calendar.

Senate bill No. 135 was read a second time, and referred to the Judiciary Committee.

Mr. Waite introduced a bill for an Act to amend and supplemental to an Act to authorize the formation of Corporations for the construction of Plank and Turnpike Roads, passed May 12, 1853; which was read first and second time, and referred to the Committee on Corporations.

Mr. Taliaferro moved to take from the file concurrent resolution to go into election of Physicians to the Insane Asylum; upon which the ayes and noes were demanded by Messrs. Taliaferro, Johnson of El Dorado and Westmoreland, and taken with the following result:

#### AYES.

Messrs. Bynum, Obase, Coffroth, Cosby, Ferguson of Sacramento, Fiske, Johnson of El Dorado, Shaw, Sullivan, Taliaferro and Westmoreland—11.

#### NOES.

Messrs. Bell, Burnett, Carpenter, Crandall, Dosh, Ferguson of Sierra, Goodwin, Johnson of Sacramento, Mandeville, McCallum, McGee, Melony, Mesick, Norman, Soule, Waite, Walkup, Wilson and Woodworth—19.

So the motion was lost.

Mr. Bynum offered the following concurrent resolution; which was adopted.

*Resolved by the Senate, (The Assembly concurring,) That our Representatives in Congress be requested, and our Senators instructed, to use every exertion to procure the establishment of a weekly mail from the City of Sacramento to the head of Clear Lake in Napa County, via Cache Creek in Yolo County.*

Mr. Waite gave notice that, on to-morrow, he will move to amend the 27th standing rule of the Senate.

#### GENERAL FILE.

Senate bill No. 126, an Act supplementary to an Act entitled "An Act to incorporate the City of Oakland, passed March 25th, 1854," was taken up and indefinitely postponed.

Senate bill No. 58, an Act concerning chattel mortgages in this State, was, on motion of Mr. Mandeville, committed to a Special Committee of three.

The Chair appointed Messrs. Mandeville, Goodwin and Soule as said Committee.

Mr. Johnson of Sacramento moved a reconsideration of the vote by which Senate bill No. 126 was indefinitely postponed.

Mr. Westmoreland moved to indefinitely postpone the motion to reconsider; which was lost.

Question recurring on the motion to reconsider, was put, and carried.

Mr. Bell offered the following amendment:

Insert after the word "delinquent" the word "City."

Adopted.

On motion of Mr. McCallum, the bill was considered engrossed, and read a third time and passed.

Senate bill No. 121, an Act enabling aliens to acquire and hold real property in this State.

Mr. Merritt moved to indefinitely postpone.

Mr. De La Guerra moved to make it the special order for Tuesday next, March 10, 1857, at 12 o'clock.

So ordered.

Mr. Bell moved to adjourn, upon which the ayes and noes were demanded by Messrs. Taliaferro, Bell and McCallum, with the following result :

#### AYES.

Messrs. Bell, Burnett, Crandall, Dosh, Ferguson of Sierra, Johnson of Sacramento, Mandeville, McGee, Melony, Mesick, Norman, Waite, Wilson and Woodworth—14.

#### NOES.

Messrs. Bynum, Carpenter, Chase, Coffroth, Cosby, De La Guerra, Ferguson of Sacramento, Fiske, Goodwin, Johnson of El Dorado, McCallum, Merritt, Shaw, Soule, Sullivan, Taliaferro and Westmoreland—17.

So the Senate refused to adjourn.

On motion of Mr. Taliaferro, Senate concurrent resolution, relating to the election of Officers for the State Insane Asylum at Stockton, was taken up.

Question on adoption.

Mr. Taliaferro moved to strike out "6th" and insert "10th, at 12 o'clock." Carried.

Question on the adoption of the resolution—upon which the ayes and noes were demanded by Messrs. Melony, Burnett and Norman, and taken with the following result :

## AYES.

Messrs. Bynum, Carpenter, Chase, Coffroth, Cosby, Crandall, De La Guerra, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Goodwin, Johnson of El Dorado, McCallum, McGee, Merritt, Mesick, Soule, Sullivan, Taliaferro and Westmoreland—21.

## NOES.

Messrs. Bell, Burnett, Ferguson of Sacramento, Mandeville, Melony, Norman, Waite, Wilson and Woodworth—9.

Mr Shaw declined voting.

So the resolution as amended was adopted.

Mr. Westmoreland gave notice that at an early day he will introduce a bill for an Act to amend the law concerning evidence in certain cases. Also, a bill for an Act concerning Chattel Mortgages.

On motion, the Senate adjourned.

Approved March 6th, 1857.

R. M. ANDERSON,  
President Senate.

Attest:

TRO. WARD, Assistant Secretary of Senate.

## IN SENATE.

FRIDAY, March 6th, 1857.

Senate met pursuant to adjournment.

President in the Chair.

Roll called.

Journals of yesterday read and approved.

Mr. Burnett in the Chair.

Mr. Bell presented a petition from the Southern District of California, praying for a Sunday law, which was referred to the Committee on Public Morals.

Mr. McGee made the following report:



*Mr. President :*

The Butte Delegation, to whom was referred Assembly Bill No. 186, a Bill authorizing the Board of Supervisors of Butte county to levy a special tax, report the same back and recommend its passage.

JOHN B. McGEE.

Mr. McGee moved that the rules be suspended and the bill be considered now, which was carried.

Assembly Bill No. 186, an Act to provide for the indigent sick in the county of Butte, was read a third time and passed.

The following message was received from the Assembly:

*Mr. President :*

I am directed to inform the Senate that the Assembly, on the 28th ult., passed Assembly Bill No. 189, an Act concerning hogs found running at large in the counties of Colusi, Tehama and Butte.

Also, Assembly Bill No. 160, an Act to provide for the payment of the debt of Santa Cruz.

Also, on yesterday, passed Assembly Bill No. 38, an Act to amend an Act to establish an Asylum for the Insane of the State of California, passed May 17th, 1853.

Also, Assembly Bill No. 27, an Act to authorize certain parties to construct a wharf in the county of Solano.

Also, Assembly Bill No. 201, an Act to provide for the payment of the debt of certain counties.

Also, Assembly Bill No. 102, an Act to protect the owners of growing crops, buildings and other improvements in the mining districts of this State, and to repeal a similar act, approved February 2d, 1855.

Also, Assembly Bill No. 214, an Act to amend an act entitled "An Act to regulate proceedings in criminal cases, passed May 1st, 1851.

W. CAMPBELL,  
Clerk of Assembly.

Assembly Bill No. 189, was taken up, read first and second time and referred to Committee on Agriculture.

Assembly Bill No. 160, was read first and second times.

Mr. Norman moved to refer to Judiciary Committee, which was lost.

Bill referred to the Delegation from Santa Cruz.

Assembly Bill No. 38, was read first and second times and referred to the Committee on Hospitals.

Assembly Bill No 27, was read first and second times and referred to the Committee on Commerce and Navigation.

Assembly Bill No. 102, was read first and second times and referred to Committee on Mines and Mining Interests.

Assembly Bill No. 214, was read first and second times.

Mr. McCallum moved to refer the bill to the Judiciary Committee.

Mr. Carpenter moved a suspension of the rules and the bill be considered now; upon which, the ayes and noes were demanded by Messrs. Carpenter, Westmoreland and McCallum, and taken with the following result:

#### AYES.

Messrs. Burnett, Bynum, Carpenter, Chase, Coffroth, Dosh, Johnson of Sacramento, Johnson of El Dorado, McGee, Melony, Merritt, Sullivan, Taliaferro, Walkup, Westmoreland and Woodworth—16.

#### NOES.

Messrs. Ashley, Bell, Crandall, Ferguson of Sierra, Mandeville, McCallum, Mesick, Norman, Shaw, Soule and Wilson—11.

Messrs. Fiske and Goodwin, declined voting.

So the motion was lost.

Mr. Coffroth moved to amend the motion to refer, by inserting "with instructions to report to-morrow."

The question recurring on the motion to refer to the Judiciary Committee, was put and carried.

Question on Mr. Coffroth's amendment, was put and carried, and the bill was referred to the Judiciary Committee with instructions.

Assembly Bill No. 201, was read first and second time and referred to Senator from Siskiyou.

Mr. Walkup presented a bill for an Act entitled "An Act to amend an Act concerning the office of County Treasurers," passed March 27th, 1850, was read first and second time and referred to Committee on Finance.

Mr. McCallum offered the following as an amendment to rules in cases of impeachment.

**RULE.**—The regular meetings of the Senate as a High Court of Impeachment, shall be held in the Assembly chamber every evening (Sundays excepted) at half past 7 o'clock P. M., until otherwise ordered.

Mr. Mandeville moved to lay on the table, upon which the ayes and noes were demanded by Messrs. McCallum, Merritt and Fiske, and taken with the following result :

AYES.

Messrs. Bell, Burnett, Bynum, Chase, Crandall, Fiske, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McGee, Melony, Mesick, Shaw, Westmoreland and Woodworth—15.

NOES.

Messrs. Carpenter, De La Guerra, Dosh, Ferguson of Sierra, McCallum, Merritt, Norman, Soule, Taliaferro, Waite, Walkup and Wilson—12.

So the motion was lost.

Mr. Waite moved to amend the 27th rule of the standing rules of the Senate, by striking out "11 o'clock" and inserting "10 o'clock," upon which the ayes and noes were demanded by Messrs. Carpenter, McCallum, and Johnson of El Dorado, and taken with the following result :

AYES.

Messrs. Burnett, Bynum, Carpenter, Chase, De La Guerra, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, Melony, Merritt, Mesick, Shaw, Soule, Sullivan, Taliaferro, Waite, Walkup, Westmoreland, Wilson and Woodworth—21.

NOES.

Messrs. Ashley, Bell, Crandall, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Fiske, McGee and Norman—9.

So the motion prevailed.

Mr. Westmoreland gave notice that he should move a reconsideration of the vote on the passage of the amendment to the 27th rule.

Mr. Merritt gave notice that on to-morrow, or at an early day thereafter, he will introduce a bill for an Act supplemental to an Act to provide for the formation of Corporations for certain purposes, passed April 14th, 1853.

GENERAL FILE.

Senate bill No. 7, an Act to protect from forced sale a certain portion of the Homestead and other property of all heads of families, was read a third time and passed.

Senate bill No. 134, an Act to authorize Maria Juana, wife of Javier Alviso, and Maria Ygnacia, wife of Jose Rochines, to sell and convey real estate.

Mr. McCallum moved to refer the bill to the Judiciary Committee, with special instructions.

Lost.

Mr. Ferguson moved that the bill be ordered engrossed and read a third time, and it was so ordered.

Assembly bill No. 132, an Act amendatory of and supplementary to an Act in relation to personal Mortgages in certain cases, passed May 11th, 1853, was referred to the Special Committee of three, appointed yesterday, consisting of Messrs. Mandeville, Goodwin and Soule.

Senate bill No. 116, an Act to authorize the Executrix and Executor of the last will and testament of William D. M. Howard, deceased, to sell real estate of the testator at private sale, was ordered engrossed.

Assembly bill No. 153, an Act for the relief of E. H. Burns, for services in Indian War.

On motion, the substitute reported by the Committee on Claims was adopted, read first and second times, and placed on calendar.

Assembly bill No. 190, an Act to cede certain property to the town of Eureka, with amendments reported by the Committee on Public Lands :

Strike out 1st, 2d, 3d, 4th, 5th, 6th and 7th lines of the second Section, down to the word "provided," and insert—

"Section 2—The Board of Trustees of said town are hereby authorized and required to lay off the said Water Front in lots of such size and in such manner as will accommodate and subserve the interest of the present mill-owners and other occupants, and shall proceed to sell such lots as are now in the *bona fide* possession of such mill-owners and other occupants, to said occupants, at a price not to exceed one dollar per front foot, and extending from high water mark to a point in the Bay where the water shall not be over six feet deep at low tide."

Amendments of Committee concurred in, bill considered engrossed and read a third time.

The question being on the final passage of the bill, the ayes and noes were demanded by Messrs. Coffroth, Johnson of El Dorado and Bynum, and taken with the following result:

AYES.

Messrs. Ashley, Bell, Bynum, Chase, Coffroth, De La Guerra, Ferguson of Sierra, Fiske, Johnson of El Dorado, McGee, Melony, Shaw, Soule, Westmoreland, Wilson and Woodworth—16.

NOES.

Messrs. Burnett, Carpenter, Crandall, Goodwin, Mandeville, McCallum, Merritt, Mesick, Norman and Walkup—10.

So the bill was passed.



Assembly bill No. 150, an Act concerning the Boundary Lines of the County of San Bernardino, was read third time and passed.

Assembly bill No. 194, an Act to fix the compensation of County Judge and District Attorney of Calaveras County, was taken up, rules suspended, read a third time and passed.

Senate bill No. 133, an Act concerning the revenue of Calaveras County, was considered engrossed, read a third time and passed.

Senate bill No. 117, an Act to authorize the execution of a Bond under an Act for funding the debt of the City of San Francisco, passed May 7th, 1855; the question being on ordering the bill engrossed and read third time, the yeas and noes were demanded by Messrs. Coffroth, Carpenter and Soule, and taken with the following result:

AYES.

Messrs. Burnett, Bynum, Carpenter, Chase, Fiske, Johnson of Sacramento, Mandeville, McCallum, McGee, Melony, Shaw, Soule, Walkup, Westmoreland and Woodworth—15.

NOES.

Messrs. Coffroth, Crandall, De La Guerra, Johnson of El Dorado, Norman and Taliaferro—6.

So the bill was ordered engrossed and read a third time.

Concurrent Resolution concerning maps of the State of California, by G. H. Goddard was considered.

Mr. Carpenter moved to lay the resolution on the table until Senators were furnished with a copy of maps, which was lost.

Mr. McCallum moved to lay the resolution on the table, which was lost.

On motion of Mr. Melony, the resolution was made the special order of the day for Friday, March 13th, at 12 o'clock M.

Assembly Bill No. 137, an Act to incorporate the town of Oroville, was read third time and passed.

Senate Bill No. 138, an Act to amend and supplemental to, an Act to authorize the formation of corporations for the construction of plank and turnpike roads, passed May 12th, 1853, was considered.

Mr. Bell moved to strike out "submarine" and insert "subaqueous."

Mr. Merritt moved to strike out "submarine" and insert "subwater," which was lost.

The President in the Chair.

The question recurring on Mr. Bell's amendment, was put and carried.

On motion of Mr. Coffroth, the rules were suspended, considered engrossed, bill read third time and passed.

The President announced the hour for the Senate to assemble as a Court of Impeachment.

## HIGH COURT OF IMPEACHMENT.

SENATE CHAMBER, Friday, March 6, 1857.

*The State of California vs. Henry Bates.*

The Court met pursuant by proclamation.

The managers attended.

Henry Bates, the defendant, accompanied by his counsel, also attended.

Mr. Ashley, Senator from Monterey, appeared and took the oath prescribed.

On motion, it was ordered that the counsel of the parties, in arguing the objections to the articles of Impeachment, be not instructed as to time.

On motion, it was ordered that the Sergeant-at-Arms procure seats upon the floor for members of the Supreme Court, and State officers, and also for the members of the Assembly.

Mr. McKune, on the part of the Managers, then presented the following replication of the Assembly, which was read:

*The reply of the Assembly of the State of California in their own behalf, and in the name of the people of said State, to so much of the plea of Henry Bates as sets up new matters of fact.*

The Assembly of the State of California presenting on behalf of themselves, and of the people of said State, as a reply to the matters set up in the answer of the Defendant, say: The said Defendant was Treasurer of said State at the time he was impeached before the Senate of said State, and if said Henry Bates has been indicted as alleged in his said plea, said indictments were found after the presentation of said Articles of Impeachment to said Senate.

E. T. BEATTY,  
Speaker of Assembly.

Attest:

W. CAMPBELL, Clerk of Assembly.

*The Replication of the Assembly of the State of California in their own behalf, and also in the name of the people of said State, to the plea of Henry Bates, to the jurisdiction of the Senate of said State, to try the Articles of Impeachment exhibited by them to the Senate against the said Henry Bates.*

The Assembly of the State of California, prosecuting on behalf of themselves, and the people of said State, the Articles of Impeachment exhibited by them to the Senate of said State against Henry Bates, reply to the plea of the said Bates, and say that the matters alleged in said plea are not sufficient to exempt the said Henry Bates from answering the said Articles of Impeachment, because they say, that by the Constitution of the State of California, the said Assembly had and has power to prefer said Articles of Impeachment, and the Senate had and have full and sole power to try the same, and the said Henry Bates could not and cannot do any act which would operate to divest the Senate of jurisdiction to bring said matters charged in the Articles of Impeachment.

Whereupon they demand that the plea aforesaid of the said Henry Bates be not allowed, but that the said Henry Bates be compelled to answer the said articles of Impeachment.

Signed by order and in behalf of the Assembly.

E. T. BEATTY,  
Speaker.

Attest :

J. W. SCOBEE, Assistant Clerk.

On motion, ordered, that in the argument of the law questions raised by the pleadings herein, the Managers open the argument, the counsel for the defendant shall follow in succession, and the Managers shall close.

On motion, ordered, that so much of the issues raised by the pleadings as are issues of law, be first presented and argued to the Court.

Whereupon the following plea was presented to the Court by the counsel of defendant :

*The People of the State of California,* }  
vs.  
*Henry Bates.*

In the Senate of the State of California, and the aforesaid Henry Bates, by Jos. W. Winans, Chas. T. Botts and E. D. Baker, his attorneys, say :

That the matter by him before alleged is sufficient reason, in law, to show that this Court ought not to hold jurisdiction of the said impeachment, and the articles therein set forth, which said matter, so, as aforesaid, by him alleged, the said Assembly not having denied or made answer thereto, he prays the judgment of this honorable Court whether they will hold further jurisdiction of the said impeachment, or take cognizance thereof, and whether the said Henry Bates shall make further answer thereto.

JOS. W. WINANS,  
CHAS. T. BOTTS,  
E. D. BAKER,  
Attorneys for Defendant.

On motion, ordered, that the Court do now adjourn until 12 o'clock to-morrow.

Approved March 7th, 1857.

R. M. ANDERSON,  
President Senate.

Attest :

TRO. WARD, Assistant Secretary.

## IN SENATE.

SATURDAY, March 7th, 1857.

Senate met pursuant to adjournment.

President in the Chair.

Roll called.

Journals of yesterday read and approved.

Mr. Ashley, Chairman of the Committee on the Judiciary, made the following report:

*Mr. President :*

The Judiciary Committee have examined Assembly Bill entitled "An Act to amend an act entitled an Act to regulate proceedings in criminal cases," passed May 1st, 1851, and report the same with amendments, which do not alter the principle or effect of the section, but which are believed better to guard the same from improper interpretation: Amend lines 12 and 13, by striking out "security" and inserting "safety;" amend in line 18 of the section, by striking out "shall" and inserting "may;" at the end of the section, add as follows:

But nothing in this act shall be held or construed to lessen the duty and obligation of all courts, officers and other persons, to pursue and arrest any person indicted for crime.

All of which is submitted.

D. R. ASHLEY,  
Chairman.

Report accepted and bill placed on calendar.

Mr. Merritt in the Chair.

The Sergeant-at-Arms made a detailed report upon the amount of postage and express stamps drawn by the Senators and officers of the Senate, which was accepted, and on motion laid on the table.



Mr. Merritt presented a bill for an Act supplementary to an act entitled "An Act to provide for the formation of corporations for certain purposes," passed April 14th, 1853, which was read first and second times and referred to the Committee on Corporations.

Mr. Bell gave notice that he will, on a convenient day, introduce a Bill to authorize miners to sell real estate.

Also, a bill to prevent the trespassing of animals on private property.

Mr. Goodwin gave notice that he will, at an early day introduce a bill to amend an Act concerning Sheriffs.

#### GENERAL FILE.

Senate Bill No. 100, an Act to provide for the construction of canals and for draining and reclaiming certain swamp and overflowed lands in Tulare Valley, which was considered in Committee of the Whole

In Senate, amendments of Committee concurred in.

Mr. Coffroth moved to amend section first, by inserting after the words "San Joaquin river" the words "at a point known as the King's river slough," which was adopted.

Mr. Mandeville in the Chair.

Mr. Walkup moved to strike out the words "or any portion" in fifth line of first section; which was adopted.

The question being—shall the bill be ordered engrossed and read a third time—upon which the ayes and noes were demanded by Messrs. Ashley, Shaw and Carpenter, and taken with the following result :

#### YEAS.

Messrs. Bell, Bynum, Coffroth, Crandall, Dosh, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Melony, Merritt, Norman, Soule, Sullivan, Walkup, Westmoreland, Wilson—16.

#### NOES.

Messrs. Ashley, Burnett, Carpenter, Chase, Mandeville, McCallum, Mesick, Shaw, Waite, Woodworth—10.

Mr. McGee declined voting.

So the bill was ordered engrossed, and read a third time.

Mr. Burnett, by leave, presented the petition of the proprietors of the Tribune Office, praying for relief, which was read and referred to the Committee on Claims.

Senate Bill No. 131, an Act to authorize the Treasurer of State to issue bonds for the payment of expenses incurred by the Siskiyou expedition against the Indians during the year 1856, was, on motion, placed at the foot of the calendar.

Mr. Johnson of Sacramento, Chairman of the Committee on Finance, by leave, made the following report:

*Mr. President:*

Your Committee, to whom was referred Senate Bill No. 139, beg leave to report that they have had the same under consideration, and report back the bill with amendment, and recommend its passage as recommended.

JOSIAH JOHNSON,  
Chairman.

Senate Bill No. 140, an Act to pay E. H. Burns for services rendered in the suppression of Indian Hostilities in the county of Klamath in this State, was considered engrossed, read third time and passed.

Senate Bill No. 139, an Act to amend an act entitled "An Act concerning the office of County Treasurer," passed March 27th, 1850, was considered; amendments reported by Finance Committee adopted, bill ordered engrossed and read a third time.

The following Assembly resolution was taken up, and on motion, laid on the table:

*Resolved*, That this House respectfully recommend and suggest to the Senate, that the business of their body as a Court of Impeachment be conducted at evening sessions; and for the purpose of holding their evening sessions, the use of the Assembly Hall is hereby tendered said Senate.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate, that the Assembly, on the 2d inst., passed Assembly Bill No. 121, an Act to amend an act entitled "An Act to create the office of State Printer and define the duties and compensation thereof, and to provide for the time and manner of election," passed May 1st, 1854.

Also, Senate Concurrent Resolution to go into Joint Convention for the election of officers to the Insane Asylum at Stockton, with amendments, and ask the concurrence of the Senate.

Also, adopted Senate Concurrent Resolution relative to weekly mail.

W. CAMPBELL,  
Clerk of the Assembly.

Assembly Bill No. 121, an Act to amend an act entitled "An Act to create the office of State Printer and define the duties and compensation thereof, and to provide for the time and manner of election," passed May 1st, 1854, was read first and second times, and on motion of Mr. Walkup, was made the special order of the day for Tuesday the 10th of March, at 12 o'clock M.

Mr. Ashley moved a reconsideration of the vote upon which the bill was made the special order of the day for the 10th inst., which was sustained; and the bill was then referred to the Committee on Printing.

On motion of Mr. Merritt, the Senate took a recess until 12 o'clock M.

At the hour appointed, the Senate re-assembled.

President in the Chair.

The President announced the arrival of the hour for the Senate to sit as a Court of Impeachment, and that all Executive and Legislative business was suspended.

## HIGH COURT OF IMPEACHMENT.

SENATE CHAMBER, Saturday, March 7, 1857.

*State of California vs. Henry Bates.*

Court met pursuant to adjournment.

The Secretary was directed by the President to inform the Assembly that the Senate is organized as a Court of Impeachment, and is ready to proceed upon the impeachment of Henry Bates in the Senate Chamber.

The managers on the part of the Assembly, and the Attorney General, attended.

Henry Bates, together with his counsel, also attended.

On motion, it was ordered that the Court adjourn until Monday next, at 12 o'clock M.

Approved March 9th, 1857.

R. M. ANDERSON,

President Senate.

Attest:

TRO. WARD, Assistant Secretary Senate.

In Senate, Mr. Coffroth moved to adjourn.

The Private Secretary of the Governor appeared within the bar of the Senate and announced himself with a message from the Governor.

Mr. Coffroth called for the question upon his motion to adjourn.

The Chair decided that pending a motion to adjourn, a message from the Governor could be received.

Mr. Coffroth appealed from the decision of the Chair.

Question "shall the decision of the Chair stand as the judgment of the Senate," upon which, after much debate, Messrs. Coffroth, Taliaferro and Cosby, demanded the ayes and noes, which were taken with the following result:

AYES.

Messrs. Ashley, Bynum, Carpenter, Chase, Cosby, Crandall, De La Guerra, Ferguson of Sierra, McCallum, McGee, Merritt, Norman, Shaw, Soule, Waite, Walkup and Wilson—17.

NOES.

Messrs. Bell, Burnett, Coffroth, Dosh, Ferguson of Sacramento, Fiske, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Melony, Mesick, Sullivan, Taliaferro and Westmoreland—14.

So the decision of the Chair was sustained.

The following message from the Governor was then read.

STATE OF CALIFORNIA, EXECUTIVE DEPARTMENT, }  
Sacramento, March 7th, 1857. }

*To the Senate of California :*

To your honorable body, in which the same originated, I return without approval, "an Act making appropriations to defray the civil expenses of the Government from the 1st day of February, 1857, to the 30th of June, 1857, inclusive.

In the performance of this official act, it was my desire to have presented at length the reasons which induce me to withhold my approval, but physically indisposed as I have been since the same was delivered to me, this fact must constitute an apology for the brevity with which so important a subject is considered.

As to the constitutional power of the Legislature to make all needful appropriations for the expenses of the State government, I entertain not a doubt, and the reasons why I do not approve of this Act, are independent of any such objections. This Act appropriates two hundred and ninety-two thousand one hundred and sixty-nine dollars and thirty-nine cents, (292,169 39,) to be expended from the first of February to July of the present year, and for the payments of the Warrants so to be drawn, the holders of the same must necessarily look to the revenue to be paid into the Treasury during the present fiscal year. This amount superadded to the necessary expenditures of the preceding portion of the fiscal year, with no further dependence than the existing revenue laws, will, by the most liberal calculation, leave a deficiency on the first of July of an amount not less than three hundred and fifty thousand dollars, (\$350,000.)

We have as a State, too long pursued a similar system of expenditures, and now our embarrassed financial condition is presented as the unavoidable result. It may be too late to retrieve the errors of the past, but not to provide securely for the future. At the opening of the present session of the Legislature, I presented an exhibit of the finances of the State, and the probable condition of affairs on the first of July next. By that exhibit you were informed that a deficiency of at least three hundred thousand dollars, (\$300,000) during the present fiscal year, would exist, unless additional sources of revenue were resorted to. Various suggestions were also made of measures that could be adopted, whereby the revenues could be increased, in my opinion, amply sufficient to meet the necessary wants of the government. Now, some two months of the session has elapsed, and although with the present Act, an amount exceeding three hundred thousand dollars (\$300,000) has been appropriated by the Legislature—no measure has been adopted



whereby these expenditures are to be met. It is now quite time that we should stop and reflect upon the condition of affairs, and instead of making appropriations, first devise ways and means to meet these expenditures—do this as a preliminary step—then pass your appropriation bills for such purposes as are necessary, but prohibiting the Controller from drawing his Warrants on the Treasurer *in any case*, unless the money is there to meet it; then will the State for the first time in its history, have attained a cash basis—scrip speculating, alike disgraceful to the character of the State and her public officers, will have ceased, and economy and frugality unite the administration of public affairs. It is unnecessary for me to suggest to your honorable body, that you can by your legislation, in a few days render the objections, which are herein made to the appropriation Act, either by resort to the different modes indicated in my annual message, or the adoption of such other amendments to the revenue laws as you may deem advisable; by so doing the inconvenience to those who are the creditors of the State, and who are anxiously awaiting the passage of an appropriation bill, will be but temporary, and they will be amply requited in the substantial benefit you will confer in providing the means to pay the Warrants they may receive.

Respectfully,

J. NEELY JOHNSON.

Mr. McCallum moved that the message be made the special order for Monday next, at 11 o'clock; upon which, the ayes and noes were demanded by Messrs. Coffroth, Fiske and Burnett, and taken with the following result:

AYES.

Messrs. Ashley, Carpenter, Crandall, De La Guerra, Ferguson of Sierra, McCallum, McGee, Merritt, Mesick, Norman, Shaw, Soule, Sullivan, Walkup and Wilson—15.

NOES.

Messrs. Bell, Burnett, Bynum, Chase, Coffroth, Cosby, Dosh, Ferguson of Sacramento, Fiske, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Melony, Taliaferro, Waite and Westmoreland—16.

So the motion was lost.

Mr. Merritt in the Chair.

Mr. Coffroth moved that the Senate adjourn; upon which the ayes and noes were demanded by Messrs. Coffroth, Fiske and Westmoreland, and taken with the following result:

AYES.

Messrs. Ashley, Carpenter, Crandall, De La Guerra, Dosh, Ferguson of Sierra, McCallum, McGee, Merritt, Mesick, Norman, Shaw, Soule, Sullivan, Walkup and Wilson—16.

## NOES.

Messrs. Bell, Burnett, Bynum, Chase, Coffroth, Cosby, Ferguson of Sacramento, Fiske, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Melony, Taliaferro, Waite and Westmoreland—15.

So the Senate adjourned.

Approved March 9th, 1857.

R. M. ANDERSON,  
President Senate.

Attest :

TRO. WARD, Assistant Secretary Senate.

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IN SENATE.

MONDAY, March 9th, 1857.

Senate met pursuant to adjournment.

President in the Chair.

Roll called.

Journals of Saturday read and approved.

Mr. Mandeville moved that the rules be suspended and the Joint Resolution fixing a day for a Joint Convention to go into the election of officers of the State Insane Asylum, as amended by the Assembly, be taken up, which was agreed to.

Mr. Cosby moved that the Senate concur in Assembly amendment.

Mr. Melony moved the indefinite postponement of the resolution.

Mr. Walkup in the chair.

Mr. Westmoreland rose to a point of order: The rules had been suspended to consider Assembly amendment to the Joint Resolution, and no other motion could be entertained.

The Chair ruled the motion of Mr. Melony in order, and the point not well taken.

Mr. Westmoreland appealed from the decision of the Chair.

Question: "Shall the decision of the Chair stand as the judgment of the Senate?"

The Chair sustained.

Mr. Westmoreland moved a call of the Senate, upon which the ayes and noes were demanded by Messrs. Coffroth, Cosby and Westmoreland, and taken with the following result:

AYES.

Messrs. Coffroth, Cosby, Dosh, Johnson of El Dorado, Merritt, Taliaferro, and Westmoreland—7.

NOES.

Messrs. Ashley, Bell, Burnett, Bynum, Carpenter, Chase, Crandall, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Mandeville, McCallum, McGee, Melony, Norman, Shaw, Soule, Sullivan, Walkup, Wilson and Woodworth—22.

So the call of the House was not sustained.

Mr. Chase moved to lay the motion to indefinitely postpone on the table with the whole subject matter, upon which the ayes and noes were demanded by Messrs. Taliaferro, Chase and Ferguson of Sacramento, and taken with the following result:

AYES.

Messrs. Bynum, Chase, Coffroth, Cosby, Dosh, Ferguson of Sacramento, Johnson of El Dorado, McCallum, Merritt, Taliaferro, Westmoreland and Wilson—12.

NOES.

Messrs. Ashley, Bell, Burnett, Carpenter, Crandall, Fiske, Goodwin, Johnson of Sacramento, Mandeville, McGee, Melony, Norman, Shaw, Soule, Sullivan, Walkup and Woodworth—17.

So the motion to lay on the table was not sustained.

Mr. Norman moved the previous question, which was lost.

Mr. Westmoreland moved a call of the Senate.

Mr. Norman again moved the previous question.

Question: "Shall the main question be now put?" upon which the ayes and noes were demanded by Messrs. Coffroth, Taliaferro and Cosby, and taken with the following result:

AYES.

Messrs. Ashley, Burnett, Carpenter, Crandall, Fiske, Goodwin, Johnson of Sacramento, Mandeville, McCallum, McGee, Melony, Norman, Shaw, Soule, Sullivan, Walkup and Woodworth—17.

## NOES.

Messrs. Bynum, Chase, Coffroth, Cosby, Dosh, Ferguson of Sacramento, Johnson of El Dorado, Merritt, Taliaferro, and Westmoreland—10.

So the call for the previous question was sustained.

The main question being on Mr. Melony's motion to indefinitely postpone the resolution, upon which the ayes and noes were demanded by Messrs. Chase, Johnson of El Dorado, and Taliaferro, and taken with the following result:

## AYES.

Messrs. Ashley, Burnett, Carpenter, Crandall, Fiske, Goodwin, Johnson of Sacramento, McGee, Melony, Norman, Shaw, Soule, Sullivan, Walkup, Westmoreland and Woodworth—16.

## NOES.

Messrs. Bell, Bynum, Chase, Coffroth, Cosby, Dosh, Ferguson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, Merritt, Taliaferro and Wilson—13.

So the resolution was indefinitely postponed.

Mr. Westmoreland gave notice that on the morrow he should move a reconsideration of the vote on the indefinite postponement of resolution to go into Joint Convention for the election of officers of the State Insane Asylum.

Mr. Fiske presented the following communication, received by him :

SACRAMENTO, March, 1857.

*To the Senate of the State of California :*

GENTLEMEN :—Believing that your honorable body cannot fail to appreciate the sentiments subscribed to by nine of the Presidents of the United States, I take the liberty of presenting you a copy of the accompanying " Important Certificate,"

And am, gentlemen,

Yours, respectfully,

ISRAEL J. DIEHL,

Corresponding Secretary.

Communication read, certificate received, and, on motion of Mr. Coffroth, the thanks of the Senate tendered to the donor.

Mr. Cosby, by leave, offered the following resolution :

*Resolved*, That the majority and minority reports of the Joint Special Committee to visit the State Insane Asylum, together with the accompanying evidence, be printed, under the supervision of the Senate portion of the Joint Committee on Printing.

Adopted.



Mr. Melony moved a reconsideration of the vote on the adoption of the resolution.

After much debate, Mr. Merritt moved the previous question, which was sustained.

Question, "Shall the main question be now put," was put and carried.

The main question being Mr. Melony's motion to reconsider the vote on the adoption of the resolution to print reports of the majority and minority and evidence of Joint Special Committee on State Insane Asylum, under the supervision of Senate portion of the Joint Committee on Printing, the ayes and noes were demanded by Messrs. Fiske, Norman and Mandeville, and taken with the following result :

AYES.

Messrs. Bell, Bynum, Carpenter, Crandall, Fiske, Goodwin, Johnson of El Dorado, Mandeville, Melony, Norman, Shaw, Soule and Walkup—13.

NOES.

Messrs. Ashley, Burnett, Coffroth, Cosby, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Johnson of Sacramento, McCallum, Merritt, Sullivan, Taliaferro, Waite, Westmoreland and Woodworth—15.

So the motion to reconsider was lost.

Mr. Melony, Chairman of the Committee on Engrossment, made the following report :

*Mr. President :*

The Committee on Engrossed Bills have examined Senate bill No. 100, entitled an Act to provide for the construction of Canals, and for draining and reclaiming certain Swamp and Overflowed Lands in Tulare Valley ; also, Senate bill No. 139, entitled an Act to amend an Act entitled an Act concerning the office of County Treasurer, passed May 27th, 1850 ; and find the same correctly engrossed.

A. P. MELONY,  
Chairman.

Report accepted and bill placed on calendar.

Mr. Bynum, Chairman of the Committee on Counties and County Boundaries, made the following report :

*Mr. President :*

The Committee on Counties and County Boundaries have had under consideration Assembly bill No. 119, entitled an Act to define the lines of Yolo County and to establish its Boundaries, and have prepared and recommend an amendment to the first section of the bill, and further recommend the passage of the bill as amended.

S. BYNUM,  
Chairman.

Report accepted and bill placed on calendar.

Mr. McGee made the following report:

*Mr. President:*

The Committee to whom was referred a bill declaring Feather river navigable, report the same back with amendment, and recommend its passage.

JNO. B. MCGEE,

Report accepted and bill placed on calendar.

Mr. Cosby made the following report:

*Mr. President:*

Your Committee, to whom was referred Assembly Bill No. 201, entitled an Act to provide for the payment of the debt of certain counties, have had the same under consideration; report the same back without amendments, and recommend the passage of the same.

J. D. COSBY,  
Of Committee.

Report accepted and bill placed on calendar.

On motion of Mr. McGee, the rules were suspended and Assembly Bill No. 47, taken up, an Act to declare Feather river navigable, adopted in Assembly, as a substitute for Assembly Bill No. 47.

The following amendment proposed by the Special Committee, was adopted:

Amend the act by adding the following:

SEC. 2d. This act shall not be deemed to affect the right of any and all persons to keep and maintain any toll bridge now established and kept over the waters hereby declared navigable, provided such bridge shall, before the first day of October next, be furnished with a draw of sufficient width to allow the passage of such steamboats as shall navigate said waters.

The bill was then read a third time and passed.

The following message was received from the Assembly :

*Mr. President :*

I am directed to inform the Senate, that the Assembly, on the 5th inst, passed Assembly Bill No 179, an Act to fix the compensation of certain officers in the counties of Santa Clara, Santa Cruz, Monterey, Mariposa, Butte, Colusi, Napa, Yolo, San Joaquin and Yuba.

Also, have concurred in Senate Amendments to Assembly Bill No. 214, an Act to amend an Act to regulate proceedings in criminal cases, passed May 1st, 1851, with the exception of the second amendment, in which the house have concurred, and respectfully asked the Senate to recede from the amendment.

Respectfully,

W. CAMPBELL,  
Clerk of Assembly.

Assembly Bill No. 179, was read first and second times and referred to the Delegations from the counties alluded to in the act.

Assembly Bill No. 214, on motion of Mr. Shaw, the Senate receded from its second amendment.

The following message was received from the Assembly.

*Mr. President:*

I am directed to inform the Senate that the Assembly has adopted a Concurrent Resolution, requesting the Governor to return for amendment Assembly bill No. 152, an Act to amend an Act to incorporate Crescent City, and ask the concurrence of the Senate.

W. CAMPBELL,  
Clerk of Assembly.

March 9th, 1857.

Assembly Concurrent Resolution, requesting the Governor to return for amendment, Assembly bill No. 152, an Act to amend an Act to incorporate Crescent City, was on motion concurred in.

Mr. McCallum introduced a bill for "an Act to prohibit noisy and boisterous amusements, and opening places of business on Sunday," which was read first and second times, and referred to Judiciary Committee.

Mr. Bell introduced a bill for "an Act entitled an Act to prevent the trespassing of animals upon private property," passed March 31, 1855, which was read first and second times and referred to Committee on Agriculture.

Mr. Goodwin introduced a bill for "an Act to amend an Act concerning Sheriffs, passed April 29, 1851," which was read first and second times.

On motion of Mr. Ashley, the Senate took a recess of ten minutes.

At the time appointed, the Senate re-assembled.

The President in the Chair.

The President announced the arrival of the hour to organize as a Court of Impeachment, for the trial of Geo. W. Whitman, Controller of State, and that all Legislative and Executive business was suspended.

## HIGH COURT OF IMPEACHMENT.

SENATE CHAMBER, Monday, March 9th, 1857.

*The State of California vs. George W. Whitman.*

The President announced the Senate now convened as a High Court of Impeachment to try George W. Whitman.

The oath prescribed was administered to the President by the Secretary of the Senate.

The President then administered the oath to the Secretary.

Whereupon the following Senators presented themselves at the Secretary's desk, when the oath was administered by the President, to wit: Messrs. Ashley, Bell, Burnett, Bynum, Carpenter, Chase, Coffroth, Cosby, Crandall, De La Guerra, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, McGee, Melony, Merritt, Mesick, Norman, Shaw, Soule, Sullivan, Taliaferro, Waite, Walkup, Westmoreland, Wilson and Woodward.

The Secretary then administered the following oath to the Sergeant-at-Arms:

I, Alex. Hunter, do solemnly swear that the return made and subscribed by me upon the process issued on the 27th day of February, 1857, by the Senate of the State of California against George W. Whitman is truly made, and that I have performed said services as therein described, so help me God!

The Sergeant-at-Arms made the following proclamation:

Oyez! Oyez! Oyez! All persons will take notice that the High Court of Impeachment of the State of California for the trial of George W. Whitman, is now in session, and are commanded to keep silence on pain of imprisonment.

The Board of Managers on the part of the Assembly appeared and took the seats assigned them.

The Sergeant-at-Arms called at the bar of the Senate the name of G. W. Whitman three times, whereupon George W. Whitman, the defendant, accompanied by his counsel, appeared within the bar of the Senate.

On motion, it was ordered that G. W. Whitman be now required to answer the articles of impeachment filed against him.

Whereupon the defendant, by his counsel, presented the following answer, which was read to the Court.

*The Answer of G. W. Whitman, to the several Articles of Impeachment preferred against him before the High Court of Impeachment of the State of California.*

The said respondent, G. W. Whitman, in his own proper person, comes into this Honorable Court, and saving to himself now, and at all times hereafter, all benefit of exceptions to the insufficiency of said articles, and each of them, as well as to the various specifications under said articles, and to the defects therein appearing in point of law or otherwise, and protesting also that he ought not to be injured in any manner by any defect or want of form in this his answer, he submits the following facts and observations by way of answer to the said articles, and the various specifications under the same.



The first article of impeachment, although containing no distinct and separate specifications, does really and in fact charge the respondent with several distinct matters, the substance and gravamen of which are as follows :

1st.—That in the month of May, 1856, the respondent, knowingly and wilfully, by color of his office, without authority of law, and contrary to the 13th section of an Act concerning the office of Controller, passed January 19th, 1850, gave to one W. S. Hughson and other clerks in his office, instructions to the effect that they should not give to the Board of Examiners, appointed by an Act to provide for the better protection of the State Treasury, approved April 16th, 1856, any assistance in making the examination of the Controller's books, required by that Act.

2d.—That the respondent did, in a manner not authorized by law, wilfully and knowingly threaten to discharge the said Hughson and the other clerks if they disregarded his aforesaid instructions.

3d.—That the respondent avowed he would wholly disregard the said Act for the better protection of the State Treasury, by offering violence to the said Board of Examiners whenever they should attempt the discharge of their duties relative to his office under said Act.

4th.—That by reason of said instructions to the clerks, and their obedience thereto, and threats to the Board of Examiners, the object of counting the money in the State Treasury by said Board of Examiners, under the said Act of April 16th, 1856, was wholly defeated, and the other duties of said Board greatly hindered and delayed.

And it is finally charged that all the aforesaid acts on the part of this respondent constitute a misdemeanor in office, under the 13th section of an Act concerning the office of Controller, passed January 19th, 1850.

Concerning these, the only matters charged in said article, the respondent, in answering the same, will follow the order in which they stand.

And first, the respondent admits that the said W. S. Hughson was a clerk in the Controller's office, and in the employ of the State; and he further admits that he did direct and instruct the said Hughson, about the time charged in said article, that if the Board of Examiners called at the Controller's office during his absence, for the purpose of making an inspection and examination of the Controller's books in performance of their duties under the Act for the better protection of the State Treasury, passed April 16th, 1856, that it was no part of his duties as Controller's clerk to furnish to said Board of Examiners the information which they were required to obtain under the said Act, and that he, said Hughson, was not required or obliged to give to said Board any personal information which he might possess of the situation of the Controller's books, but the respondent denies that he ever did give any instructions to the said Hughson or any of the other clerks in his office in any way calculated to thwart or impede the action of the said Board of Examiners in performing any of the duties enjoined upon them by law, but on the contrary, the respondent avers that he directed the said Hughson and the other clerks in the Controller's office, that if the said Board of Examiners should call during his absence for the purpose of performing any of their aforesaid duties under the aforesaid Act of April 16th, 1856, that all the books, vouchers, documents and records in the Controller's office should be immediately placed at their disposal, and that every facility should be afforded to the said Board of Examiners, to make the inspection and examination required by law.

And the respondent, further answering, says that he did not then, and does not now consider it any part of the duties of the Controller or of his clerks to have made an examination of the books, vouchers and documents in his office, for the

benefit of said Board of Examiners, but on the contrary, he avers and insists that all the duties enjoined on said Board of Examiners by the aforesaid Act are personal to themselves, and that the law enjoins on them, and not on the Controller or his clerks, the duty of examining the books and papers in the Controller's office.

And the respondent, further answering, says that by the 4th section of the aforesaid act of April 16th, 1856, he is only required to permit the said Board of Examiners to examine the books and papers in his office, and he avers that as far as he was able he did permit them so to do, and that he offered them every facility for making said examination, and that if said examination was not made by the said Board of Examiners, that it was not the fault of this respondent.

And he further avers that for him or his clerks to have furnished the said Board with information which they were required to obtain for themselves by a personal examination of the books and papers in his office, or for the said Board to have in any way relied on such information, if furnished, would have been a gross violation of the whole spirit, meaning and policy of the act under which they were appointed.

And the respondent, further answering the first subdivision of the said article of impeachment, says that the said Board of Examiners never did call at the Controller's office for the purpose of performing any of their official duties at any time when the respondent was personally present, and he is informed and verily believes that the said Board never called at the Controller's office for the aforesaid purpose but once during his absence, which was on or about the — day of —, 1856.

In reply to the second subdivision of article 1st, the respondent says, that he has above fully set forth all the instructions which he ever gave to the said Hughson or any of the other clerks in regard to the said Board of Examiners; and he admits that he did threaten to discharge the said Hughson if he violated the said instructions; but the respondent denies that he ever gave any such instructions as are alleged against him in said article of impeachment, or that he ever did threaten to discharge said Hughson, or any of the other clerks in his office, for a violation of any such supposed instructions as in said article are set forth and charged against him.

And the respondent, for answer to the third subdivision of the said article of impeachment, says that he explicitly and positively denies that, as Controller, he ever did avow and declare that he would disregard the act to provide for the better protection of the State Treasury, by offering violence to the said Board of Examiners if they attempted the discharge of their duties relative to his office, or by any other obstruction which would render said act inoperative, but on the contrary, the said Board were always courteously and respectfully treated by him and by his clerks.

And the respondent, for answer to the 4th subdivision of said article, says that he explicitly and positively denies that either by reason of any instructions ever given by him to the said Hughson, or any of the other clerks in his office, and their obedience to said instructions, or by reason of any threats made by him against the said Board of Examiners, or by any other obstructions whatsoever, the said Board of Examiners were prevented from counting the money in the State Treasury, or that any of the other duties enjoined upon said Board by law, were in any way hindered and delayed.

And the respondent, further answering generally to the said article of impeachment, says that he denies that there is any offence charged against him therein, for which he is liable to impeachment before this Honorable Court; and he further denies that he has ever wilfully or knowingly, or under color of his office, violated any of the duties enjoined upon him by law.

And the said G. W. Whitman for *plea* to the first article of impeachment, saith that he is not guilty of any crime or misdemeanor, either under the act concerning

the office of Controller, passed January 19th, 1850, or under the act for the better protection of the State Treasury, passed April 16th, 1856, as in and by the said first article is alleged; and this, he prays, may be enquired of by this Honorable Court in such manner as law and justice shall seem to them to require.

The second article of impeachment, generally charges this respondent with a misdemeanor in office, for having knowingly and wilfully failed to furnish certain information to the Governor, as required by written communications addressed to the respondent in the month of May, 1856; and said failure is charged as a deliberate and wilful violation of section 6th, of Article 5, of the Constitution of the State.

This general accusation is supported by two specific charges of official misconduct.

1st. That the respondent wilfully neglected and wholly failed to furnish information to the Governor, as requested by a written communication, dated May 14th, 1856, which is alleged to be lost or mislaid, as to the amount of Controller's warrants drawn upon the different appropriations in the State Treasury for the year 1856; the amounts remaining in said appropriations upon which no Controller's warrants were drawn in said year; also, the amounts in the different funds in the vaults of the State Treasury, as far as could be shown by his books.

2d. That the respondent wilfully neglected and wholly failed to furnish to the Governor information relative to the duties of his office, as required by a communication from the Executive Department, dated May 28th, 1856.

The respondent in answer to specification 1st of this article, says, that during the latter part of the month of May, 1856, he was absent from the city of Sacramento for several days, and on his return thereto, he was informed by W. S. Hughson, who was at that time chief clerk in his office, that during his absence a demand had been made by the Governor for certain information, which it was impossible to furnish, owing to the neglect and failure of the State Treasurer to furnish his monthly reports to the Controller for the months of April and May, 1856, as he was required to do by the act passed March 27th, 1855, entitled "An Act concerning the offices of Controller and Treasurer of State," and without which, it was impossible to furnish to the Governor the information by him desired.

The respondent, further answering to this specification, says that he has no recollection of the said communication alleged to have been lost ever having been laid before him; and the said Hughson did not inform this respondent that any communication had been addressed to the Controller from the Executive department in writing; neither was this respondent informed particularly as to the nature of the information required by the Governor, but he was generally informed that certain information had been required, which it was impossible to furnish, owing to the failure of the State Treasurer to make his monthly returns aforesaid.

And the respondent, for answer to the 2d specification of article 2d, says, that he denies that if any such supposed letter as is set out in the said specification was ever addressed to him by the Governor under date of May 28, 1856, that the said letter ever came to his hands, and he has no personal knowledge or information on the subject, either as to the existence of said letter or the contents thereof; and he denies that he has ever received any official communication from the Governor which has remained unanswered.

And the respondent avers that if any such communication was ever addressed to him by the Governor, that the object and motive of such communication was to obtain information for the use and benefit of the Board of Examiners, of which Board the Governor was a member, and for no other purpose whatever, which information the respondent has already shown he was not in any way bound by law to furnish.



And further answering the 2d specification of said article, the respondent says, that if he had received the said communication from the Governor, that it would have been impossible for him to comply with the requests therein contained, inasmuch as he was only allowed about the space of twenty-four hours to furnish said information, a period of time altogether too short for that purpose ; and he avers that the demand was altogether unreasonable and improper, as several days would have been required to furnish said information with any degree of precision or accuracy.

And for further answer to the said specification, respondent says, that on or about the 5th day of June, 1856, he called at the office of the Governor, and was then and there informed by him that the duties of his office as Executive of the State would prevent him from acting thereafter as one of the Board of Examiners, which information was sufficient to obviate the necessity of any formal reply to the interrogatories contained in said communication, supposing that they had come to the personal knowledge of respondent.

And further answering the said specification, the respondent says, that after the aforesaid conversation with the Governor, he always cheerfully and readily furnished the Board of Examiners and each member thereof with any and all information necessary to aid them in correctly auditing accounts without any formal demand on their part, and has always been ready to furnish information with regard to the affairs of his office to any person having the right to demand the same, and never on any occasion neglected or refused so to do.

And the said respondent finally says, in answer to the second article of impeachment preferred against him, and the specifications under said article, that he denies that he has ever been unmindful that he held his office under the Constitution and laws of the State ; and he denies that he has ever knowingly and wilfully neglected, failed and refused to perform any of the duties enjoined upon him by law, and especially the matters set out and charged against him in said specifications ; and he denies that he has knowingly and wilfully violated Section 6th of Article 5th of the Constitution of the State in manner and form as charged therein.

And the said G. W. Whitman, for plea to the second article of impeachment, saith that he is not guilty of any crime or misdemeanor, as in and by the said second article is alleged against him, and this he prays may be inquired of by this Honorable Court in such manner as law and justice shall seem to them to require.

The third article of impeachment generally charges the respondent with drawing Controller's Warrants on the State Treasury in favor of J. M. Estell, without the claim or demand on which said warrants were drawn having been first presented to the said Board of Examiners, and without having endorsed thereon the previous approval of said Board, which acts are charged to have been done by color of his office without authority of law, and contrary to the express provisions of the Act for the better protection of the State Treasury, approved April 16th, 1856.

This article is supported by ten distinct specifications, each specification charging the respondent with drawing a certain warrant in favor of said Estell, the amount of each being the same, and only differing in the date at which they were drawn.

The respondent will therefore make one general reply to all the specifications contained in this article.

And for an answer thereto the respondent says, that he admits that he did, as Controller, draw in favor of J. M. Estell, Lessee of the State Prison, the said several warrants for the amounts, and at the dates set forth in the several specifications of this article, and he admits that said warrants were issued to said



Estell, without the claim on which said warrants were drawn having been first presented to the said Board of Examiners, and without the previous approval of said Board of Examiners being endorsed thereon; but the respondent denies that in drawing said warrants he acted without authority of law, but on the contrary he avers and insists that in drawing said warrants he acted properly and legally, and he now presents to this Honorable Court the following statement as a sufficient vindication both of his motives and of his official action in drawing the said warrants.

An Act entitled an Act creating a Board of State Prison Commissioners, and defining their duties, was approved March 24th, 1856.

By the first section of said Act the Lieutenant Governor, Controller and Treasurer, were constituted the said Board, and among the duties confided to their charge by the said Act, power was given them to lease the State Prison grounds and property, together with the convict labor of the State for a period of five years at a price not to exceed fifteen thousand dollars per month, said lease to be made in conformity with the provisions of said Act.

By the 7th section of said Act, the sum of fifteen thousand dollars per month, or such sum per month less than that amount in accordance with the contract to be made by said Board, was appropriated out of any money in the Treasury not otherwise appropriated, and the Controller was by said 7th section of said Act, authorized and required to draw his warrants on the Treasurer of State for said sum, and the State Treasurer was by the same section directed to pay the said warrants on application of said lessee in writing on the last day of each month.

The respondent represents that under this Act the said Board of State Prison Commissioners, of which he was a member, did upon the 26th day of March, 1856, enter into a contract on behalf of the said State with the said J. M. Estell, a printed copy of which will be found in the Journal of the Assembly for the year 1856, pages 824, 5 and 6, and which contract respondent prays may be taken and considered as a part of this answer.

By the fourth clause of said contract it was stipulated and agreed that the State of California would pay to the said Estell the sum of ten thousand dollars monthly, and during the period of five years from the date of said contract, which said monthly payments were to be made on the last day of each and every calendar month during the continuance of the said term.

The respondent now avers that in drawing said warrants, he has acted strictly within the terms of the said contract.

And he further avers that in making said contract, the State Prison Commissioners did not exceed the authority conferred on them by the Act under which the said Board was organized.

And he further avers that said contract when made became a valid and binding obligation on the State, and that it was not competent for the legislative power of the State to make any law to impair the obligation thereof, because such Act or law would be in violation of section 16th of article 1st of the Constitution of this State, which provides that no bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, shall ever be passed.

The respondent further answering the several specifications of article third, says that if the said Act, passed April 16th, 1856, for the better protection of the State Treasury, can be so construed as to have any bearing on the right of this respondent to issue Controller's Warrants to the said J. M. Estell, according to the terms of the said contract, or that said Act operated as a restriction or limitation on his powers and duties under the aforesaid contract, and the aforesaid Act organizing the Board of State Prison Commissioners; he then avers and insists that that part

of the Act of April 16th, 1856, creating said restriction and limitation is unconstitutional and void under that provision of the Constitution above cited.

And further answering article 3d, the respondent says that he had just and reasonable grounds for believing, and that he did believe at the time said Warrants were issued, and still believes, that in drawing the same he was not in any manner violating the spirit and meaning of the Act of April 16th, 1856, for the better protection of the State Treasury.

And the respondent further says that the object and policy of the law in requiring the said Board of Examiners to audit and approve certain claims, except the salaries of officers, cannot by any proper or fair construction be held to apply to this case, because the money due to the said Estell was a liquidated demand in the nature of a salary under an express contract, payable monthly, for the period of five years, under a law still in full force and effect, and, as respondent contends, in no way repealed, altered, or impaired by the aforesaid Act of April 16th, 1856.

The respondent further says in answer to said article, that the first Warrant drawn by him in favor of said J. M. Estell, for his monthly payment under said contract, was so drawn prior to the organization of the Board of Examiners, and before the passage of the Act creating said Board, which said Warrant was drawn on the last day of the calendar month, according to the terms of the contract; and he further says, that when said Estell made a demand upon him for the amount due for his second month's salary or services under said contract, that the respondent referred said Estell to the said Board of Examiners; whereupon said Estell left the office of respondent, and returning shortly afterwards, informed respondent that the Governor, as Chairman of the Board of Examiners, was of the opinion that the claim of said Estell did not require the approval of the Board, and the respondent fully relying on said information, and also believing that under the aforesaid Act creating the Board of State Prison Commissioners, approved March 22d, 1856, that he was compelled to draw his Warrants for the sums agreed to be paid according to the contract, when they severally became due, according to the terms thereof, he drew the Warrants aforesaid.

And the respondent now denies that the drawing of said warrants has caused any injury, loss or damage to the State, and he solemnly denies that in drawing the same he was influenced by any unjust, corrupt or improper motives; and he most solemnly declares that in drawing said warrants he was solely influenced by a sense of official duty and obligation imposed upon him by positive law, and finally in reply to the 3d article of impeachment the respondent says that if, in his aforesaid conduct he has in any manner violated the provisions of the Act of April 16th, 1856, the same was not done knowingly or wilfully, but from a misconstruction of the said Act, and from his reliance on the opinion of the Governor that the previous approval of the Board of Examiners was unnecessary.

And the said G. W. Whitman for plea to the said third article of impeachment saith that he is not guilty of any misdemeanor in office as in and by the said third article is alleged, and this he prays may be inquired of by this Honorable Court in such manner as law and justice shall seem to them to require.

The fourth article of impeachment charges respondent with wilfully and knowingly under color of his office, and without authority of law drawing certain warrants in favor of said Estell, Lessee of the State Prison, amounting in the aggregate to the sum of ten thousand dollars, which warrants are alleged to have been drawn on the 1st of April, 1856, for his salary from the 26th of March to the 26th of April, which said Act is charged to be in violation of an Act creating a Board of State Prison Commissioners, and defining their duties, approved March 21st, 1856, and also a knowing and wilful violation of the 13th section of an Act concerning the office of Controller, passed January 19th, 1850.

The respondent has already in answering the third article of impeachment an-

ticipated all that he might have said in reply to this article, and he begs this Honorable Court to consider the matters of defense set up in reply to the third article as also applying to article fourth. He has only further to add, that he denies that the said warrants were drawn without authority of law, and he denies that the drawing of said warrants was any violation of either the Act creating the Board of State Prison Commissioners or the Act concerning the office of Controller.

And he denies that there was only the sum of about one thousand dollars due the said Estell according to the contract at the time said warrants were drawn, but on the contrary the respondent avers, and is ready to make good as this Honorable Court shall direct that the whole amount of said warrants was actually due to said Estell according to the terms of the contract aforesaid.

And the respondent denies that he has knowingly or wilfully violated any of the Acts above referred to, and that if he has committed an error in drawing said Warrants, that he did the same under a sense of official duty and without any improper motive.

And the said G. W. Whitman for plea to the fourth article of impeachment says that he is not guilty of a misdemeanor in office as in and by the fourth article is alleged, and this he prays may be inquired of by this honorable Court in such manner as law and justice shall seem to require.

The 5th article of impeachment generally charges the respondent with knowingly and wilfully combining and conspiring with W. D. Hughson, E. A. Rowe and others, to cheat and defraud the State Treasury, by substituting Controller's Warrants in the place of the money and bullion collected for the State by certain County Treasurers, and by authorizing the State Treasurer to receive said Warrants from the different County Treasurers in the place of the coin and bullion collected by them as aforesaid.

This general charge is supported by six general specifications.

The respondent has one general reply to make to this article of impeachment, to each and every specification under the same, and for answer thereto, the respondent says that he explicitly and positively denies each and every averment contained in said article, and he further denies all the matters set forth under each and every specification thereof.

And the said G. W. Whitman, for plea to the 5th article of impeachment, says that he is not guilty of any of the supposed crimes or misdemeanors in office as charged against him in the said article, and the various specifications under the same, and this he prays may be inquired of by this honorable Court, in such manner as law and justice shall seem to require.

The 6th article of impeachment differs from the last only in one respect; instead of charging the respondent with committing personally the several supposed misdemeanors in office, as alleged in article five, it charges that he so wilfully neglected and carelessly attended to the duties of his office, as to allow and permit the said W. S. Hughson so use his position as clerk in the Controller's office, in combination with one E. A. Rowe, to purchase for their own use large amounts of State Warrants, and by use of the Controller's name, to make the substitution of Warrants for cash as charged in the various specifications of article fifth.

In answer to this article, the respondent says, that when he entered upon the duties of the office of Controller, he found the said W. S. Hughson a clerk in the office; that he had been a clerk in said office during the whole of his predecessor's administration, and was perfectly conversant and familiar with the duties thereof, and as the said Hughson was highly recommended to respondent for his correct business habits and unexceptionable character, by gentlemen of the highest stand-



ing, among whom respondent makes mention of Governor Johnson and the President of this honorable Court, he considered it proper and advisable to retain him as a clerk in the office.

The respondent further answering this charge, says that confiding in the honesty and integrity of the said Hughson, who was the chief and confidential clerk in his office, and for the furtherance of business, the respondent did permit the said Hughson to sign his name as Controller of State to orders authorizing the State Treasurer to receive moneys from the County Treasurers. In justification of the Act, the respondent says that it has long been the established custom and practice, in the Controller's office, to entrust certain duties [perhaps more properly belonging, by the strict letter of the law, to the Controller himself,] to confidential clerks, and in fact, the onerous and multifarious duties of the office render such a course unavoidable.

The respondent denies that in so doing he can be justly accused of any wilful or corrupt misconduct, because from the aforesaid recommendation of said Hughson, he regarded him as a man of probity and honor, and fit to be trusted, and for the further reason that it is physically impossible for the Controller personally to perform all the work of his office, and therefore it becomes necessary to trust somebody, and the respondent knew no person more fit to be entrusted with those duties than the said Hughson, and he denies that the mere act of permitting said Hughson to sign his name can be construed into any crime or misdemeanor whatever, because from the very nature of the duties of his office, he is authorized to employ a deputy.

And further answering the said article, the respondent says that he denies that the said Hughson, in combination with the said Rowe, or otherwise, ever committed the various acts charged as misdemeanors in office on the part of this respondent in the fifth and sixth articles of impeachment. And he denies that he has ever been unmindful of the solemn duties of his office, or that he so wilfully neglected and carelessly attended to the duties thereof, as to allow and permit the said Hughson to commit the said several supposed acts set out in articles fifth and sixth. But he avers that he has at all times faithfully and diligently attended to the duties of his office, and that he has used all reasonable and proper precautions to protect the State Treasury against loss or damage.

And the said G. W. Whitman, for plea to the sixth article of impeachment, says that he is not guilty of any misdemeanor in office, as in and by the said sixth article is alleged, and this he prays may be inquired of by this Honorable Court in such manner as law and justice may seem to them to require.

The seventh and last article charges the respondent with a misdemeanor in office, for having accepted an order, drawn by Estell, December 6th, 1856, in favor of William Norris, for the sum of ten thousand dollars, which he was entitled to, as State Prison Lessee, for the month of March, 1857.

For answer to this article, respondent says that he admits the acceptance of said order, as charged in said article, but that although he signed said acceptance as Controller of State, the act was not intended as an official act in the sense charged in the said article, but merely to correspond with the address of the said order. That by so endorsing the order as accepted, all that respondent meant to do, or could do, was to signify that the said Norris was thereby placed in the relative position to the Controller of J. M. Estell, and was entitled to draw the ten thousand dollar warrant due said Estell on the last day of March, 1857, should said Estell, by the due fulfilment of his contract, become entitled to the same.

The acceptance of the respondent operated in fact as a recognition of the assignment of Estell's rights in the money that would be due him on the last day of March, 1857, provided he continued to fulfil his contract, and in case he



failed to do so, the acceptance would have been void ; and respondent then believed, and still believes, that Estell had a right to make an assignment to Norris of the amount that would be due him for the month of March ; and that he had a right to recognize the same by accepting the order.

The respondent says that he denies that this article has any legal validity whatever ; and he denies that he committed the act therein complained of, wilfully ; and that if he erred in this matter, it was simply an error of judgment, which could in no possible event cause any damage or injury to the State.

The respondent has now laid before this Honorable Court, as well as the time allowed him would permit, all the circumstances of his case ; and feeling conscious that he has discharged all his official duties to the best of his knowledge and abilities ; and that, intentionally, he hath committed no crime or misdemeanor, or any violation of the Constitution or laws of the State, he is satisfied that every member of this high tribunal will observe that great principle that lies at the foundation of all criminal jurisprudence, that he is to be presumed innocent until his guilt shall be established by legal and creditable witnesses.

And confiding in the integrity, impartiality and independence of his judges, and that they will not be moved against him by the spirit of party, by popular prejudice, or political motives, but that they will patiently hear and conscientiously determine all the issues involved in this important case, he now cheerfully submits himself to their decision.

G. W. WHITMAN, Respondent.

PHIL. L. EDWARDS, }  
G. W. PERLEY, } Counsel.  
B. O. WHITMAN, }

On motion, it was ordered that this Court adjourn until the 23d of March, 1857, at 12 o'clock M.

On motion, it was ordered that the witnesses subpoenaed to be and appear before this Court on this day, be and appear before the same on Monday the 23d day of March inst., at 12 o'clock M., without further notice, in the case of the State of California vs. G. W. Whitman, and that the Sergeant-at-Arms notify the witnesses now present to that effect.

The trial of Geo. W. Whitman having been continued, the Court proceeded with the trial of Henry Bates.

*The State of California vs. Henry Bates.*

Mr. McCallum presiding.

On motion of Mr. Goodwin, it was ordered that the rule adopted by this Court as to the order of argument by counsel, be so amended as to read in such order as counsel for defendant and the managers may agree upon.

Mr. Swezy, on the part of the managers, replied to the argument of Col. Baker made on Saturday.

Mr. Winans replied to Mr. Sweezy.

Pending the argument of Mr. Winans, it was ordered that the Court adjourn until to-morrow, at 12 o'clock M.

Approved March 10th, 1857.

R. M. ANDERSON,  
President Senate.

Attest:

GEO. S. EVANS, Secretary Senate.

#### IN SENATE.

On motion of Mr. McCallum, the Senate adjourned.

Approved March 10th, 1857.

R. M. ANDERSON,  
President Senate.

Attest:

TRO. WARD, Assistant Secretary of Senate

#### IN SENATE.

TUESDAY, March 10th, 1857.

Roll called.

President in the Chair.

Journals of yesterday read and approved.

The following communication, received by the President, was read to the Senate :

*To the Honorable the Members of the Senate of the State of California :*

I am directed by the Ladies composing the Committee of Managers of the "Calico Party," to tender you their sincere thanks for the use of the Senate Chamber on the evening of the 6th inst.

Very respectfully,

MRS. E. A. WRIGHT,

March 9th, 1857.

Corresponding Sec'y.

The communication of Messrs. ——— and Overton, inviting the President and Senators to attend an exhibition of the Steam Wagon, by them invented, and now displayed in Sacramento, was read.

Mr. Melony, Chairman of the Committee on Engrossment, made the following report :

*Mr. President :*

The Committee on Engrossed Bills have examined Senate Bill No. 116, entitled an Act to authorize the Executrix and Executors of the last will and testament of Wm. D. M. Howard, deceased, to sell real estate of the testator at private sale ; also, Senate bill No. 117, entitled an Act to authorize the execution of a Bond under an Act for Funding the Debt of the city of San Francisco, passed May 7th, 1855 ; and Senate bill No. 134, entitled an Act to authorize Maria Ygnacia, wife of Jarvier Alviso, and Maria Juana, wife of Jose Rochine, to sell and convey real estate ; and find each of said bills correctly engrossed.

A. R. MELONY,  
Chairman.

Mr. McCallum in the chair.

Mr. Soule, of the San Francisco Delegation, made the following report :

*Mr. President :*

The San Francisco Delegation, to whom was referred Senate bill No. 132, an Act entitled an Act to repeal the several charters of the city of San Francisco, to define the boundaries of the city and county of San Francisco, and to consolidate the government thereof, passed April 19th, 1856—report, that they have carefully examined the same, and respectfully recommend its passage without amendment.

SOULE,  
SHAW,  
SULLIVAN,  
WOODWORTH.

Report accepted and bill placed on calendar.

Message of the Governor, received and read on Saturday, was taken up, and on motion of Mr. Coffroth, laid on the table.

Mr. Walkup presented a bill for an Act to amend an Act entitled an Act to provide Revenues for the Support of the Government of this State, passed May 15th, 1854, which was read first and second times.

Mr. Mandeville moved a suspension of the rules, that the bill be considered engrossed and read a third time, which was agreed to.

Mr. Goodwin moved to make the bill the special order of the day for Thursday next, the 12th inst., at 11 o'clock, A. M., which was lost.

Mr. Goodwin then moved to amend by striking out "70 cents" and inserting "40 cents," which was lost.

On motion, the bill was read a third time and passed.

Mr. Bell introduced a bill for an Act to empower minors to sell real and personal estate under certain circumstances, which was read first and second times and referred to the Judiciary Committee.

Mr. Taliaferro introduced a bill for an Act amendatory of an act entitled "An Act amendatory of and supplementary to, an act entitled an Act to regulate

proceedings in civil cases in the Courts of Justice in this State," passed May 15th, 1854, which was read first and second times and referred to the Judiciary Committee.

#### GENERAL FILE.

Senate Bill No. 100, an Act to provide for the construction of canals, and for draining and reclaiming certain swamp and overflowed lands in Tulare Valley, was read a third time and, on motion of Mr. Codroth, laid on the table.

Mr. Westmerland, in accordance with previous notice given, moved the reconsideration of the vote by which the Senate Concurrent Resolution fixing a day for a Joint Convention to go into the election of officers for the State Insane Asylum, was indefinitely postponed.

After much debate, Mr. Westmerland demanded the previous question, which was sustained.

The question being "shall the main question be now put," was put and carried.

The main question being Mr. Westmerland's motion to reconsider the vote on the indefinite postponement of the resolution, was put and carried.

Mr. Melory moved the indefinite postponement of the resolution.

Mr. Ashley objected, as not in order.

The Chair decided that under the operation of the previous question, that after the reconsideration the succeeding motion must be a motion to postpone as an incident and a part of the previous question.

Mr. Ashley appealed from the decision of the Chair.

Question "Shall the decision of the Chair stand as the judgment of the Senate," was put and lost.

Mr. Crandall, Chairman of the Committee on Enrolled Bills, made the following report:

*Mr. President:*

Your Committee on Enrolled Bills, have examined and found correctly enrolled, an Act to amend an act entitled "An Act concerning evidence," passed February 5th, 1856.

Also, an Act to abolish the office of Directors of the State Prison.

Also, an Act to limit the time for presentation of claims against counties, and for receiving payment for the same.

Also, an Act to amend an act entitled "An Act to fund the debt of the county of Calaveras, and provide for the payment thereof," approved May 8d, 1852.

Also, an Act supplementary to, and to amend, an Act concerning the debt and current expenses of the county of Monterey, and to provided for the funding and the payment of the same, approved April 19th, 1856.

Also, an Act authorizing the United States to purchase lands for public purposes.

D. CRANDALL,  
Chairman.



Mr. Ferguson of Sacramento, moved to amend the Concurrent Resolution to go into Convention for the election of officers to the State Insane Asylum, by striking out "Tuesday, the 10th of March," and inserting "Friday the 13th of March."

After debate, Mr. Merritt moved the previous question, which was sustained.

Question: "Shall the main question be now put?" was put and carried.

The main question being on Mr. Ferguson's amendment to strike out and insert, was put and carried.

On motion, the Assembly amendment was concurred in.

Mr. Melony renewed his motion to indefinitely postpone the resolution, upon which the ayes and noes were demanded by Messrs. Ashley, Waite and Fiske, and taken with the following result:

#### AYES.

Messrs. Ashley, Crandall, Johnson of Sacramento, McGee, Melony, Mesick, Norman, Shaw, Waite, Walkup, Wilson and Woodworth—12.

#### NOES.

Messrs. Bell, Burnett, Bynum, Carpenter, Chase, Coffroth, Cosby, De La Guerra, Dosh, Ferguson of Sacramento, Fiske, Goodwin, Johnson of El Dorado, Mandeville, McCallum, Merritt, Soule, Sullivan, Taliaferro and Westmoreland—20.

So the motion was lost.

On motion of Mr. Coffroth, the Senate took a recess for five minutes.

Senate re-assembled at the time appointed.

The President in the chair.

The Chair announced the arrival of the hour to organize as a Court of Impeachment for the trial of Henry Bates, and that all executive and legislative business was suspended.

### HIGH COURT OF IMPEACHMENT.

SENATE CHAMBER, March 10th, 1857—12 o'clock M.

Court met pursuant to adjournment.

The President of the Senate presiding.

Roll called.

Minutes of Court yesterday read and approved.

Mr. Norman offered the following order, which was read and rejected:

*Ordered*, That when this Court adjourns that it adjourn until half-past seven o'clock to-morrow evening.

On motion of Mr. Carpenter, it was

*Ordered*, That on to-morrow and hereafter this Court will hold evening sessions, commencing at 7½ o'clock.

Mr. Winans, counsel for defendant, appeared and resumed his argument of yesterday, after which Mr. Botts appeared and made the closing argument on the part of the defense, at the conclusion of which, it was, on motion of Mr. Woodworth,

*Ordered*, That the order of this Court for the holding of evening sessions on and after to-morrow, 11th inst., be and is hereby vacated.

Mr. Catlin, one of the managers, appeared and replied on the part of the State, to the arguments of counsel for the defendant.

At the conclusion of which it was, on motion of Mr. Goodwin,

*Ordered*, That the Court adjourn until to-morrow at 12 o'clock M.

Approved March 11th, 1857.

S. H. DOSH,

President Senate *pro tem*.

Attest :

G. S. EVANS, Secretary Senate.

#### IN SENATE.

Mr. Coffroth gave notice that he will on to-morrow, or at an early day, introduce a bill for an Act to regulate the Fire Department of San Francisco.

On motion of Mr. Cosby, the Senate adjourned.

Approved March 11th, 1857.

S. H. DOSH,

President Senate *pro tem*.

Attest :

GEO. S. EVANS, Secretary Senate

## IN SENATE.

WEDNESDAY, March 11th, 1857.

Senate met pursuant to adjournment.

Roll called.

The President *pro tem.* in the Chair.

Journals of yesterday read and approved.

The following message was received from the Assembly:

*Mr. President :*

I am directed to inform the Senate that the Assembly has adopted a concurrent resolution authorizing the Assembly Enrolling Committee to make an alteration in the enrolled copy of Assembly bill No. 194, an Act to fix the compensation of the County Judge and District Attorney of Calaveras County, and ask the concurrence of the Senate.

Also, passed Senate bill No. 118, an Act to authorize the Board of Supervisors of Calaveras County to levy a special tax to redeem County Warrants.

Also, Senate bill No. 115, an Act to fix the time of holding the Court of Sessions, and the County Courts of Sacramento County.

Also, has appointed Messrs. Pierce, Lane and Blake a Committee of Conference on behalf of the Assembly to confer with a committee on the part of the Senate on Senate bill No. 97, an Act to amend an act to amend an act entitled "an Act concerning the Board of Supervisors of Placer County," approved February 4th, 1857.

Also, Assembly bill No. 206, an Act to prescribe the mode of drawing Grand Jurors and Trial Jurors in the City and County of San Francisco.

Respectfully submitted,

W. CAMPBELL,

Clerk of Assembly.

March 10th, 1857.

On motion, the Senate concurred in Assembly concurrent resolution authorizing Assembly Enrolling Committee to make an alteration in Assembly bill No. 194.

Assembly bill No. 206 was read a first and second time and placed on calendar.

Mr. Ashley, Chairman of the Judiciary Committee, made the following report:

*Mr. President:*

The Judiciary Committee, to whom was referred Senate bill No. 142, an Act to prohibit noisy and barbarous amusements, and opening places of business on Sunday, have had the same under consideration, and recommend its passage with the following amendment.

Amend the title so as to read as follows: "An Act to prohibit noisy and barbarous amusements, and the public transaction of business on Sunday."

D. R. ASHLEY,

Chairman.

Senate bill No. 143, an Act to amend an act entitled "an Act concerning Sheriffs," passed April 29th, 1851, was on motion of Mr. Ashley, referred to the Judiciary Committee.

Mr. Soule introduced a bill for an Act to define the powers and duties of the Board of Supervisors of the City and County of San Francisco in certain cases, which was read first and second time.

Mr. Shaw moved a suspension of the rules to further consider the bill, upon which the ayes and noes were demanded by Messrs. Coffroth, Cosby and Mesick, and taken with the following result:

AYES.

Messrs. Ashley, Bell, Bynum, Carpenter, Chase, Ferguson of Sierra, Goodwin, Johnson of Sacramento, Mandeville, McCallum, Melony, Shaw, Soule, Sullivan, Waite, Walkup, Wilson and Woodworth—18.

NOES.

Messrs. Coffroth, Cosby, Crandall, Dosh, Johnson of El Dorado, Mesick, Norman and Taliaferro—8.

Mr. Fiske declined voting.

So the rules were suspended and the bill considered in Committee of the Whole.

The Committee reported back the bill without amendment.

In Senate.

On motion, the rules were further suspended, bill considered engrossed, read a third time and passed.

Mr. Coffroth in the chair.

Mr. Dosh introduced a bill for an Act to provide for the payment of the indebtedness of the County of Shasta, contracted prior to the first day of March, A. D. 1857, which was read first and second times and placed on calendar.

Mr. Norman offered the following resolution:

*Resolved*, the Assembly concurring, That, by a proper construction of the Constitution of this State, there is no legal indebtedness against the State exceeding the amount of three hundred thousand dollars.



*Resolved*, That *all* just and *equitable* claims against the State ought to be paid.

*Resolved*, That the only method which can be adopted for the payment of the claims against this State, exceeding the amount of three hundred thousand dollars, is to leave the same to be voted upon by the people, as provided in the Constitution.

Mr. Walkup moved to lay the resolutions upon the table, upon which the ayes and noes were demanded by Messrs. Norman, Melony and Johnson of El Dorado, and taken with the following result:

AYES.

Messrs. Ashley, Bell, Burnett, Bynum, Carpenter, Chase, De La Guerra, Ferguson of Sierra, Fiske, Mandeville, McCallum, Merritt, Mesick, Sullivan, Waite, Walkup, Westmoreland and Woodworth—18.

NOES.

Messrs. Coffroth, Cosby, Crandall, Dosh, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Melony, Norman, Taliaferro and Wilson—11.

So the motion to lay on the table was sustained.

Mr. Mandeville moved to take from the table the veto message of the Governor together with the bill "making appropriations for defraying the civil expenses of the government from the 1st of February, 1857, to the 30th of June, 1857, inclusive." upon which the ayes and noes were demanded by Messrs. Mandeville, McCallum and Waite.

Mr. Woodworth called for the reading of the bill, to which objection was made.

Question on Mr. Mandeville's motion was taken with the following result:

AYES.

Messrs. Ashley, Bynum, Carpenter, Crandall, Ferguson, of Sierra, Johnson of Sacramento, Mandeville, McCallum, McGee, Merritt, Shaw, Soule, Sullivan, Waite, Walkup, Wilson and Woodworth—17.

NOES.

Messrs. Bell, Burnett, Chase, Coffroth, Cosby, Dosh, Fiske, Goodwin, Johnson of El Dorado, Melony, Mesick, Norman, Taliaferro and Westmoreland—14.

So the message and bill were taken up.

After some time spent in debate, the question being, "shall the bill pass notwithstanding the objection of the Governor," was taken and the veto of the Governor sustained by the following vote:

AYES.

Messrs. Bell, Burnett, Chase, Coffroth, Dosh, Fiske and Taliaferro—7.

## NOES.

Messrs. Ashley, Bynum, Carpenter, Cosby, Crandall, Ferguson of Sierra, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, McGee, Melony, Merritt, Mesick, Norman, Shaw, Soule, Sullivan, Waite, Walkup, Westmoreland, Wilson and Woodworth—24.

Mr. McCallum, by leave, introduced a bill for "an Act making appropriations for the civil expenses of the government," which was read first time.

Mr. Goodwin gave notice that at an early day he will introduce a bill to grant H. M. Stone a ferry license.

Mr. Carpenter gave notice that on to-morrow, or at an early day, he will introduce a bill authorizing the present County Judge of El Dorado county to reside at Coloma until the expiration of his office.

Mr. Fiske offered the following resolution :

*Resolved*, By the Senate (the Assembly concurring,) That the Treasurer of State be required to transfer all moneys in the Treasury, known as the Interest Fund, to the General Fund.

Mr. Merritt moved its indefinite postponement.

Whereupon Mr. Fiske withdrew the resolution.

On motion of Mr. Bell, the Senate took a recess of five minutes.

The Senate re-assembled at the expiration of the recess.

The hour having arrived for the meeting of the Court of Impeachment, the President announced all Executive and Legislative business suspended.

## HIGH COURT OF IMPEACHMENT.

SENATE CHAMBER, Wednesday, March 11, 1857.

*State of California vs. Henry Bates.*

President of the Senate presiding.

Roll called. All the members present.

Minutes of yesterday's proceedings read and approved.

Mr. Coffroth offered the following order :

*It is ordered by the Court*, That we now proceed to consider the question of jurisdiction, in secret session, which was lost.

Mr. McCallum offered the following order :

*Ordered*, That the Court proceed to consider the objections taken to the answer of Henry Bates.

Mr. Shaw offered the following order :

The counsel on the part of the prosecution, and also on the part of the defense, having been duly heard on the question of jurisdiction, and the other issues of law raised, in the pleadings,

*Ordered*, "That the same and the whole thereof be and are hereby overruled, and that the said Bates be and he is hereby directed to answer forthwith."

Mr. Bell offered the following order :

*Ordered*, That the following question be now put to the Court : "Shall the demurrer put in by the managers be sustained ? and has this Court jurisdiction further to try Henry Bates ?"

Mr. Ashley offered the following order :

*It is ordered*, That the objections made by the defendant, Henry Bates, to the sufficiency of the articles of impeachment and to the jurisdiction of the Senate, are not valid, and are overruled ; it is further ordered that said defendant, Henry Bates, do forthwith answer the articles of impeachment."

Question being as to which order to adopt as the order of the Court.

On motion, the order of Mr. Ashley was first put and adopted as the order of the Court.

Whereupon the order was read to the defendant, Henry Bates, and the President announced that he would be required to answer forthwith.

Mr. Winans, defendant's counsel, asked for further time to answer.

Whereupon, it was *ordered*, that the defendant, Henry Bates, have until tomorrow 12 o'clock, M., to answer, and that this Court do now adjourn until that time.

Approved March 11th, 1857.

R. M. ANDERSON,  
President Senate.

Attest :

GEO. S. EVANS, Secretary Senate.

## IN SENATE.

Mr. McCallum in the Chair.

Mr. Norman moved the Senate do now adjourn, upon which the ayes and noes were demanded by Messrs Merritt, Walkup and Norman, and taken with the following result :

## AYES.

Messrs. Ashley, Burnett, Bynum, Coffroth, Cosby, De la Guerra, Ferguson of Sacramento, Ferguson of Sierra, Goodwin, Mandeville, McGee, Melony, Mesick, Norman, Soule, Sullivan, Waite, Westmoreland, Wilson and Woodworth—20.

## NOES.

Messrs. Bell, Carpenter, Chase, Crandall, Dosh, Fiske, Johnson of Sacramento, Johnson of El Dorado, McCallum, Merritt, Shaw, Taliaferro and Walkup—13.

So the Senate adjourned.

Approved March 12th, 1857.

S. H. DOSH,  
President Senate, *pro tem.*

Attest :

TRO. WARD, Assistant Secretary Senate.

## IN SENATE.

THURSDAY, March 12th, 1857.

Senate met pursuant to adjournment.

President *pro tem.* in the Chair.

Roll called.

Absent—Mr. Mesick.

Journals of yesterday read and approved.

Mr. Crandall, Chairman of the Committee on Enrolled Bills, made the following report:

Mr. President :

Your Committee on Enrolled Bills presented to the Governor, on the 10th inst.:



An Act to abolish the office of Directors of the State Prison.

Also, an Act to limit the time for presentation of claims against Counties, and for receiving payment for the same.

Also, an Act to amend an Act entitled "An Act to fund the debt of the County of Calaveras, and provide for the payment thereof, approved May 3d, 1852."

Also, an Act authorizing the United States to purchase Lands for public purposes.

D. CRANDALL,

Chairman.

The following messages were received from his Excellency the Governor:

EXECUTIVE DEPARTMENT, }  
Sacramento, March 10, 1857. }

*To the Senate of California:*

I have this day approved an Act to amend an Act entitled "An Act to fund the debt of the County of Calaveras, and provide for the payment thereof, approved May 3d, 1852."

Also, an Act authorizing the United States to purchase Lands for public purposes.

Also, an Act to abolish the office of Directors of the State Prison.

J. NEELY JOHNSON.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly, on yesterday, adopted a concurrent resolution for the relief of Wm. Grove Deal.

Also, concurrent resolutions for the relief of Gen. A. M. Winn.

Also, concurrent resolution relative to State Prison.

Also, concurrent resolution requesting the Governor to return a certain bill.

And respectfully ask the concurrence of the Senate in the above resolutions.

The Assembly also has concurred in Senate amendments to Senate concurrent resolution to go into Joint Convention for the election of officers to the Insane Asylum at Stockton.

W. CAMPBELL,

Clerk Assembly.

March 11th, 1857.

Assembly concurrent resolution for the relief of Wm. Grove Deal, was, on motion, concurred in.

Assembly concurrent resolution for the relief of Gen. A. M. Winn, was, on motion, referred to the Committee on Claims.

Assembly concurrent resolution relative to the State Prison, and calling for the appointment of a Committee on the part of the Senate to meet with a like Committee on the part of the Assembly, was, on motion, concurred in.

The Chair appointed as such Committee, Messrs. Walkup, Norman and Cosby.

Assembly concurrent resolution, requesting the Governor to return a certain bill, was, on motion, concurred in.

#### SECOND READING OF BILLS.

Senate bill No. 150, an Act making appropriations for the civil expenses of the Government, was read a second time.

Mr. McCallum moved to refer the bill to the Committee on Public Expenditures, with instructions to make the proper calculations of the expenses of the Government for the time of two months from 1st February to last May inclusive, and fill out the bill accordingly; also, to report the same to the Senate on tomorrow; which was lost, and the bill placed on the calendar.

Mr. Goodwin made the following report:

*Mr. President :*

The Judiciary Committee, to whom was referred Assembly bill No. 10, have had the same under consideration, and report it back with a substitute, and recommend the adoption of the substitute.

Report accepted, and substitute adopted.

Senate substitute to Assembly bill No. 10, an Act to amend an Act entitled "An Act defining the rights of husband and wife, passed April 17, 1850," was then read first and second times, and placed on the calendar.

Mr. Cosby, of the Committee on Mileage, made the following report:

*Mr. President:*

The Committee on Mileage beg leave to make the following report:

We report the distance by the nearest mail route travelled by Senator Woodworth, of San Francisco, in going to and returning from the seat of Government to his place of residence at two hundred and ten miles; also as the distance by the nearest mail route traveled by your Committee appointed to visit the State Insane Asylum as being eighty-four miles.

B. D. WILSON,  
J. D. COSBY,  
S. H. CHASE.

Mr. Goodwin, by leave, introduced a bill entitled an Act to grant H. M. Stone the right of way across the Sacramento River, which was read first and second times and placed on the calendar.

#### GENERAL FILE.

Senate bill No. 117, an Act to authorize the execution of a Bond under an Act for Funding the Debt of San Francisco, passed May 7th, 1855, was read third time and passed.

Senate bill No. 134, an Act to authorize Maria Ygnacia, wife of Jarvier Alviso, and Maria-Juana, wife of Jose Rochine, to sell and convey real estate, was read third time and passed.

Senate bill No. 139, an Act to amend an Act entitled an Act concerning the office of County Treasurers, passed March 27th, 1850, was read third time and passed.

Senate bill No. 116, an Act to authorize the Executrix of the last will and testament of William D. M. Howard, deceased, to sell real estate of the Testator at private sale, was laid on the table.

Assembly bill No. 201, an Act to provide for the Payment of the Debt of certain Counties, was read third time and passed.

Senate bill No. 131, an Act to authorize the Treasurer of State to issue bonds for the payment of expenses incurred by the Siskiyou Expedition against the Indians during the year 1856, was amended and ordered engrossed and read third time.

Mr. Coffroth, by leave, introduced a bill for an Act to regulate the Fire Department of the City and County of San Francisco, which was read first and second times and referred to the San Francisco Delegation, with instruction to report on Tuesday morning, and 240 copies ordered printed.

Mr. Bynum, by leave, made the following report :

*Mr. President :*

The Special Committee to whom was referred Senate bill No. 11, entitled an Act to legalize certain Records in Solano County, have had the same under consideration, and respectfully recommend the passage of the same, without amendment.

S. BYNUM,

Of Special Committee.

Mr. Merritt, by leave, introduced the following resolution :

*Resolved*, That the State Printer be and is hereby requested to furnish to the Senate at as early a day as possible, the cost of printing done by order of either and both branches of the Legislature since the 5th January, 1857, viz : 1st, the cost of printing ordered by both Houses jointly. 2d, the cost of printing ordered by the Senate. 3d, the cost of printing ordered by the Assembly.

Adopted.

Senate bill No. 132, an Act to amend an Act entitled an Act to repeal the several charters of the city of San Francisco, to define the boundaries of the city and county of San Francisco, and to consolidate the government thereof, passed April 19th, 1856, was ordered engrossed and read third time.

Assembly bill No. 119, an Act to define the lines of Yolo County and to establish its boundaries, with report of Committee on Counties and County Boundaries, recommending an amendment. The amendment was adopted, bill read third time and passed.

Mr. Norman moved to suspend the rules and take up Senate bill No 125, an Act to appropriate \$3,239,488, to pay certain outstanding claims against the State ; which was lost.

Assembly bill No. 206, an Act to prescribe the mode of drawing Grand Jurors and Trial Jurors in the city and county of San Francisco, was read third time and passed.

Senate bill No. 142, an Act to prohibit Noisy and Barbarous Amusements and opening Places of Business on Sunday.

Pending action on this bill the Senate took a recess of five minutes.

At the expiration of the recess the Senate met.

The hour having arrived for the Senate to organize as a Court of Impeachment upon the trial of Henry Bates, the President announced all Executive and Legislative business suspended.

## HIGH COURT OF IMPEACHMENT.

SENATE CHAMBER, Thursday, March 14th, 1857.

Court met pursuant to adjournment.

President of the Senate presiding.

Minutes of yesterday read and approved.

On this day, Henry Bates, the defendant, appearing in Court, was called upon to plead; whereupon he stood forth at the bar of the Senate, and when asked if he was ready to plead, answered that he refused to plead, and prayed leave to present the following protest, to wit:

### IN THE SENATE OF THE STATE OF CALIFORNIA.

*The State of California vs. Henry Bates, on the Impeachment of said defendant by the Assembly of California.*

And the said defendant, Henry Bates, protesting against the jurisdiction of this Honorable Court, on the ground that the defendant is not and was not at the time when he was impeached, the Treasurer of the State of California, but only a private citizen, holding no office whatever; and also, that defendant is now under indictment and about to be tried in the proper courts of criminal jurisdiction, for the same offences as are charged in the articles of impeachment against him, and not desiring to be twice put in jeopardy for the same offence, this defendant having averred and still averring the insufficiency of the impeachment against him, respectfully declines and refuses to plead thereto.

HENRY BATES.

On motion of Mr. Coffroth, it was ordered that the Court go into secret session by the following vote:

AYES.

Messrs. Ashley, Bell, Burnett, Bynum, Carpenter, Chase, Coffroth, Cosby, Crandall, De La Guerra, Dosh, Ferguson of Sacramento, Ferguson of Sierra,



Fiske, Johnson of Sacramento, Johnson of El Dorado, Mandeville, Melony, Norman, Shaw, Sullivan, Taliaferro, Waite, Walkup, Westmoreland, Wilson and Woodworth—27.

NOES.

Messrs. Goodwin, McCallum, McGee, Merritt, Mesick and Soule—6.

IN SECRET SESSION.

On motion of Mr. McCallum, the following order, to-wit: in the matter of the impeachment of Henry Bates on articles of impeachment, he having refused to answer:

"It is therefore ordered, adjudged and decreed by the Senate as a High Court of Impeachment, that said Bates is convicted of the charges preferred against him."

Adopted by the following vote:

AYES.

Messrs. Ashley, Bell, Burnett, Bynum, Carpenter, Chase, Coffroth, Cosby, Crandall, De La Guerra, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, McGee, Melony, Merritt, Mesick, Norman, Shaw, Soule, Sullivan, Taliaferro, Waite, Walkup, Wilson and Woodworth—32.

NOES.

Mr. Westmoreland.

Mr. McCallum offered the following as the judgment of the Court, to wit:

*Whereas*, The Senate, as a High Court of Impeachment, on the 12th day of March, A. D. 1857, found Henry Bates, Treasurer of State, guilty of the charges preferred against him in the articles of impeachment;

*And, Whereas*, said Bates resigned his office after his impeachment by the Assembly, therefore it is

*Resolved, adjudged and decreed by the Senate*, that said Henry Bates be forever disqualified from holding any office of trust, honor or profit under the State of California.

Mr. Ferguson of Sacramento, offered the following as a substitute, to wit:

*Whereas*, Henry Bates has, on this day, been convicted by the Senate, on certain articles of impeachment preferred against him as Treasurer of the State by the Assembly of the State of California, therefore

*Resolved by the Senate*, that the said Henry Bates be removed from the office of Treasurer of State, and that he be disqualified from holding any office of honor, trust or profit under this State.

Mr. Dosh moved that the vote be taken upon the order or judgment proposed by Mr. Ferguson of Sacramento, first, which was lost by the following vote:

AYES.

Messrs. Cosby, Dosh, Ferguson of Sacramento, Shaw, Soule, Taliaferro and Westmoreland—7.

NOES.

Messrs. Ashley, Bell, Burnett, Bynum, Carpenter, Chase, Crandall, De La Guerra, Ferguson of Sierra, Fiske, Goodwin, Johnson of El Dorado, Mandeville, McCallum, Melony, Norman, Sullivan, Waite, Walkup and Woodworth—20.

Question recurring upon the motion of Mr. McCallum, was put and adopted as the judgment of the Court, by the following vote, to wit:

AYES.

Messrs. Ashley, Bell, Burnett, Bynum, Carpenter, Chase, Coffroth, Crandall, De La Guerra, Dosh, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, McGee, Melony, Merritt, Mesick, Norman, Shaw, Soule, Sullivan, Taliaferro, Waite, Walkup, Wilson and Woodworth—30.

NOES.

Messrs. Cosby, Ferguson of Sacramento, and Westmoreland—3.

On motion of Mr. Ferguson of Sacramento, it was unanimously

*Ordered by the Court*, that the witnesses both on the part of the prosecution and the defense, in the case of *The People vs. Bates*, on impeachment, be and they are hereby discharged from any further attendance.

IN OPEN SESSION.

The Sergeant-at-Arms of the Senate, by order of the President, proclaimed at the door that the Court was in open session, and three times called the defendant, Henry Bates, and the Managers on the part of the Assembly.

The Managers and the defendant, by his counsel, appearing, the Secretary, by direction of the Court, proceeded to read the following Order of the Court, to wit:

“In the matter of the Impeachment of Henry Bates, on articles of Impeachment he having refused to answer, it is therefore ordered, adjudged and decreed by the Senate, as a High Court of Impeachment, that said Bates is convicted of the charges preferred against him.”

Whereupon the President proceeded to announce the following as the judgment of the Senate:

*Whereas*, The Senate, as a High Court of Impeachment, on the 12th day of March, A. D. 1857, found Henry Bates, Treasurer of State, guilty of the charges preferred against him in the articles of Impeachment—

*And whereas, Said Bates resigned his office after his Impeachment by the Assembly, therefore it is*

*Resolved, adjudged and decreed, by the Senate, That said Henry Bates be forever disqualified from holding any office of trust, honor or profit, under the State of California.*

On motion of Mr. Dosh, it was by a unanimous vote—

*Ordered, That the Court do adjourn until Monday, March 23d, 1857.*

Approved March 13th, 1857.

S. H. DOSH,

President Senate *pro tem.*

Attest :

GEO. S. EVANS, Secretary Senate.

#### IN SENATE.

Mr. Ashley presented the following resolution :

*Resolved, That all proceedings of the Senate, as a Court of Impeachment, be held and entered upon the Journals of the Senate, as a part of its records.*

Adopted.

On motion of Mr. Coffroth, the Secretary of the Senate was directed to notify the Assembly, officially, of the judgment rendered by the Court of Impeachment in the case of the State of California *vs.* Henry Bates.

The following message was received from the Assembly:

*Mr. President :*

I am directed to inform the Senate that the Assembly, on to-day, passed Assembly bill No. 248, an Act for the relief of the State Prison.

Also has passed Assembly bill No. 210, an Act to change and fix the County Seat of the County of Yolo.

W. CAMPBELL,

Clerk of Assembly.

March 12, 1857.

On motion of Mr. Westmoreland, the rules were suspended, and Assembly message considered.

Assembly bill No. 248 was read first and second time.

Mr. Dosh moved a further suspension of the rules, that the bill might be put on its third reading; upon which the ayes and noes were demanded by Messrs. Taliaferro, De La Guerra and Fiske, and taken with the following result:

## AYES.

Messrs. Bell, Bynum, Chase, Coffroth, Cosby, Crandall, Dosh, Ferguson of Sacramento, Goodwin, Johnson of El Dorado, Norman, Soule, Sullivan, Taliaferro and Westmoreland—15.

## NOES.

Messrs. Ashley, Burnett, De La Guerra, Ferguson of Sierra, Fiske, Johnson of Sacramento, McCallum, McGee, Melony, Merritt, Mesick, Shaw, Waite, Walkup, Wilson and Woodworth—16.

So the motion was lost.

On motion, the bill was referred to the Committee on the State Prison, with instructions to report to-morrow morning.

Assembly bill No. 210 was read first and second times, and referred to the Delegation from Yolo.

On motion of Mr. Goodwin, the Senate adjourned.

Approved March 13th, 1857.

S. H. DOSH,  
President Senate *pro tem*.

Attest :

GEO. S. EVANS, Secretary Senate.

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 IN SENATE.

FRIDAY, March 13th, 1857.

Senate met pursuant to adjournment.

President in the Chair.

Roll called.

Mr. Coffroth in the Chair.

Journals of yesterday read, and, on motion of Mr. McCallum, the injunction of secrecy in the Court of Impeachment, on yesterday, was recorded, and the Secretary directed to spread the minutes of the Court in secret session on the Journals.

## REPORTS OF COMMITTEES.

Mr. Bynum made the following report:



*Mr. President :*

The Delegation from Yolo, to whom was referred Assembly bill No. 210, entitled an Act to change and fix the County Seat of the County of Yolo, has had the same under consideration, and recommend its passage without amendment.

S. BYNUM.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly have, this day, passed Assembly bill No. 215, an Act to grant to certain parties the right of laying a Railroad Track along certain streets within the City and County of San Francisco.

Also passed Assembly bill No. 193, an Act to amend an Act entitled "An Act to adjust the indebtedness of the County of Alameda to the County of Contra Costa, and provide for the payment thereof."

W. CAMPBELL,  
Clerk of Assembly.

March 11th, 1857.

Assembly bill No. 215 was read first and second time, and placed on calendar.

Assembly bill No. 193 was read first and second time, and referred to Contra Costa and Alameda Delegation.

#### INTRODUCTION OF BILLS.

Mr. Waite introduced a bill for an Act concerning the moneys in the State Treasury, and to appropriate from the same for the civil expenses of the State from the first day of February, A. D. 1857, inclusive.

Read first and second time; rules suspended, considered engrossed; read third time, and passed.

On motion of Mr. Ashley, the bill was ordered engrossed.

Mr. Carpenter introduced a bill for an Act relating to and fixing the residence of the County Judge of the County of El Dorado.

Read first and second time, and referred to the El Dorado Delegation.

Mr. Dosh introduced a bill for an Act to establish the County Seat of Tehama County.

Read first and second time, and placed on calendar.

#### MOTIONS, RESOLUTIONS AND NOTICES.

Mr. Walkup offered a concurrent resolution relating to the School Lands. Referred to Committee on Public Lands.

Mr. Carpenter gave notice that, at an early day, he will introduce a bill to change the time of holding elections in this State.

Mr. Walkup introduced a concurrent resolution requesting the Governor to return the enrolled bill—an Act to limit the time of presentation of claims against Counties, and for receiving payment for the same—for correction; which was adopted.

Mr. Westmoreland, by leave, made the following report :

*Mr. President :*

The Committee on State Prison herewith return Assembly bill No. 248, with the recommendation that it pass.

C. WESTMORELAND,

Chairman of Committee on State Prison.

On motion of Mr. Westmoreland, the rules were suspended, and Assembly bill No. 248 was considered in Committee of the Whole, amended and reported back.

In Senate, amendments adopted, read third time and passed.

Mr. Waite presented a communication from Dr. Langdon, Physician of the Insane Asylum, together with an accompanying affidavit, which was read and laid on the table.

Mr. Dosh, by leave, made the following report :

*Mr. President :*

The Committee of Conference on Senate Bill No. 97, "an Act to amend an Act entitled an Act concerning the Board of Supervisors of Placer county," approved February 4, 1857, have made the following amendments, and recommend the concurrence of the two Houses, *viz* :

Amend the title of the bill so as to read as follows :

"An Act supplementary to an Act entitled an Act concerning the Board of Supervisors of Placer county," approved February 4th, 1857, and to extend its provisions to other counties herein named.

Amend by the addition of the following section :

SECTION 2. The Supervisor filling the term nearest expiration, shall be Chairman of the Board ; *provided*, that in no instance shall the provision apply to a member of the Board elected to fill a vacancy, unless each member composing the Board shall have been elected to serve out an unexpired term.

S. H. DOSH,  
JOS. WALKUP,  
SAM. B. BELL,

Senate Committee.

On motion of Mr. Dosh, the rules were suspended and amendments of committee adopted.

Mr. Norman moved to take from the table Senate bill No. 125, an Act to appropriate \$3,239,488, to pay certain outstanding claims against the State, upon which the ayes and noes were demanded by Messrs. Norman, Melony and Cosby, and taken with the following result :

## AYES.

Messrs. Bell, Bynum, Coffroth, Crandall, De la Guerra, Dosh, Ferguson of Sacramento, Johnson of Sacramento, Johnson of El Dorado, McGee, Melony, Mesick, Norman, Soule, Taliaferro, Walkup, Westmoreland, Wilson and Woodworth—19.

## NOES.

Messrs. Ashley, Burnett, Carpenter, Chase, Cosby, Ferguson of Sierra, Fiske, McCallum and Merritt—9.

Mr. Goodwin declined voting.

So the bill was taken up.

On motion of Mr. Norman, the bill was made the special order of the day for Tuesday, March 17, 1857, at 12 o'clock, M.

By unanimous consent, Senate Bill No. 53, an Act to legalize the present indebtedness of the State of California and to provide for its payment, was also taken from the table, and made the special order for Tuesday, March 17, 1857, at 12 o'clock, M.

## GENERAL FILE.

On motion of Mr. Mandeville, the Secretary of the Senate was directed to inform the Assembly that the Senate were now ready to go into the election of officers of the Insane Asylum at Stockton.

On motion of Mr. Fiske, the Senate took a recess of five minutes.

## IN SENATE.

The following message was received from the Assembly:

*Mr. President :*

I am directed to inform the Senate that the Assembly is now ready to meet the Senate in Joint Convention for the purpose of electing officers and trustees for the State Insane Asylum.

W. CAMPBELL,

Clerk Assembly.

March 13, 1857.

Whereupon the Senate proceeded to the Assembly Chamber.

## IN JOINT CONVENTION.

Convention called to order by President of the Senate.

Senator Walkup, absent.

Members of the Assembly absent—Messrs. Caperton, Morrison, Orvis, Quimby, Smith, Swezy and Watkins.

The President announced the object of the Convention—the election of officers of the State Insane Asylum at Stockton.

Mr. Brent presented the following resolution:

*Resolved*, That the Joint Convention proceed in the following order: First, Resident Physician; second, Assistant Physician; and then, Trustees of the Insane Asylum of the State of California, whose term of office shall be for two years and until their successors are appointed and qualified; and of two Trustees of said Asylum, whose term of office shall be for one year and until their successors are appointed and qualified,—all of which said terms shall commence at the present session of the Legislature.

Mr. Hall, of the Assembly, offered the following resolution as a substitute:

*Resolved*, That the Convention adopt the following order of business:

First, The election of a Resident Physician to the Asylum.

Second, The election of Visiting Physician.

Third, The election of Trustees.

The election shall be held by calling the roll of the Senate and Assembly, and taking the vote *viva voce*.

After much debate, Mr. Merritt moved the previous question, which was not sustained.

Mr. Brent withdrew his resolution.

Whereupon, Mr. Taliaferro moved the previous question; which was sustained.

The question being, " Shall the main question be now put ?" was taken and carried.

The main question being the resolution offered by Mr. Hall, was put, and the resolution adopted.



Nominations were then declared to be in order.

Mr. Ferguson, of Sacramento, nominated Dr. W. D. Aylett.

Mr. Shepard nominated Dr. Samuel R. Geary.

Mr. Norman of the Senate, and Mr. Estell of the Assembly, were appointed tellers.

Mr. Ashley, of the Senate, presented the following protest:

I believe, that under a correct construction of our Constitution and the law, there are no vacancies to be filled, and we have no right to elect the officers named; for which reason, I protest against an election, and shall not vote.

D. R. ASHLEY.

Whereupon, the Convention proceeded to ballot for Resident Physician, with the following result:

Those who voted for W. D. Aylette were—

Messrs. Bynum, Carpenter, Chase, Coffroth, Cosby, Crandall, De La Guerra, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, McGee, Melony, Merritt, Norman, Shaw, Sullivan, Taliaferro, Westmoreland, Wilson, Anderson, Aull, Barrett, Brent, Burch, Burns, Carpenter, Cassin, Coil, Covarrubias, Davidson, Edwards, Estell, Ferris, Fourgeaud, Fuller, Gilman, Graves, Hall, Hamm, Hare, Harrison, Holden, Howard, Hume, Hunt, Hunter, Inman, Irwin, Jenkins, Kendrick, Larue, Livermore, Long, McDonald, McKune, Miles of Santa Cruz, Miles of Sierra, Mitchell, Moore, O'Neill, Patrick, Pierce, Ricks, Rogers, Safford, Seawell, Showalter, Shuler, Steele, Stevenson, Turner, Underwood, Varney, Warrington, Whipple, Wood, Wyman, Beatty—83.

Those who voted for Mr. Geary were—

Messrs. Soule, Woodworth, Blake, Palmer of San Francisco, Shepard—5.

Messrs. Bell, and Palmer of Santa Clara, voted for A. J. Spencer.

Mr. Fiske voted for Asa Clark.

Mr. Curtis voted for Robert Ellis.

Total number of votes. ....	92
Necessary to a choice. ....	47

Dr. W. D. Aylette having received a majority of all the votes cast, the President declared him duly elected Resident Physician of the State Insane Asylum, according to law.

Nominations for Assistant Physician were then declared in order.

Mr. Mandeville nominated Dr. Thomas Kendall.

Mr. Shepard nominated A. B. Nixon.

Whereupon the Convention proceeded to ballot for Assistant Physician, with the following result:

Those who voted for Thomas Kendall were—

Messrs. Bynum, Carpenter, Chase, Coffroth, Cosby, Crandall, De La Guerra, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, McGee, Melony, Merritt, Norman, Shaw, Taliaferro, Westmoreland, Anderson, Aull, Brent, Burch, Burns, Carpenter, Casin, Coil, Covarrubias, Curtis, Davidson, Estell, Fuller, Gilman, Graves, Hall, Hare, Harrison, Holden, Howard, Hume, Hunt, Hunter, Irwin, Jenkins, Kendrick, Larue, Livermore, Long, McDonald, McKune, Miles of Santa Cruz, Miles of Sierra, Mitchell, Moore, O'Neill, Patrick, Pierce, Ricks, Rogers, Safford, Seawell, Showalter, Shuler, Steele, Stevenson, Turner, Underwood, Varney, Warrington, Whipple, Wyman and Beatty—74.

Mr. Shepard voted for A. B. Nixon.

Mr. Bell voted for Robt. Werthington.

Mr. Fiske voted for S. F. Hamm.

Mr. Clark voted for Johnson Price.

Mr. Ferris voted for Jos. M. Prague.

Whole number of votes.....	79
Necessary to a choice.....	40

Dr. Thos. Kendall having received a majority of all the votes cast, was by the President declared duly elected Assistant Physician of the State Insane Asylum according to law.

Mr. Clark moved a call of the Convention.

Carried.

The Sergeant-at-Arms was dispatched after absent members.

On motion of Mr. Mandeville, the call was suspended.

Nominations for Trustees of the State Insane Asylum was then announced to be in order.

Mr. P. Moore nominated for the short term Messrs. P. E. Connor and W. H. Lyon.

Mr. ——— nominated C. J. More.

Mr. ——— nominated R. C. Clark.

Mr. Soule nominated Saml. A. Merritt.

Whereupon the Convention proceeded to ballot for Trustees of the State Insane Asylum for the short term, with the following result:

Those who voted for Messrs. P. E. Connor and W. H. Lyon, were—

Messrs. Bynum, Carpenter, Chase, Crandall, De La Guerra, Dosh, Ferguson of Sacramento, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McGee, Melony, Merritt, Norman, Shaw, Taliaferro, Walkup, Westmoreland, Anderson, Aull, Beatty, Burch, Burns, Carpenter, Cassin, Coil, Covarrubias, Curtis, Davidson, Estell, Fuller, Gilman, Graves, Hall, Hamm, Harrison, Holden, Howard, Hume, Hunt, Hunter, Irwin, Jenkins, Kendrick, Larue, Livermore, Long, McDonald, McKune, Miles of Santa Cruz, Miles of Sierra, Mitchell, Moore, O'Neill, Patrick, Pierce, Ricks, Rogers, Seawell, Showalter, Shuler, Safford, Steele, Turner, Underwood, Warrington, Whipple and Wyman—68.

Mr. Fiske voted for Messrs. McCallum and Clark.

Mr. Coffroth voted for Messrs. Merritt and Howard.

Mr. Clark voted for Messrs. Fiske and Watkins.

Mr. Palmer of San Francisco, voted for Messrs. Merritt and Soule.

Mr. Shepard voted for Messrs. Soule and Merritt.

Mr. Watkins voted for Messrs. Brooks and Bane.

Those who voted for Mr. Merritt, were—Messrs. Bell, Soule, Woodworth and Blake.

Mr. Cosby voted for Mr. More.

Whole number of votes.....	85
Necessary to a choice.....	43

Messrs. P. E. Connor and W. H. Lyon, having received a majority of all the votes, were declared duly elected Trustees of the State Insane Asylum for the short term, according to law.

Nominations for Trustees for the State Insane Asylum for the long term were declared in order.

Mr. More nominated Messrs. Lester, Huggins and Marshall.

Mr. Coffroth nominated Messrs. Westmoreland, Ferguson and McGee.

Mr. Cosby nominated Messrs. Shepard, Davidson and Cosby.

Whereupon the Convention proceeded to ballot for Trustees for the long term with the following result :

Those who voted for Messrs. Andrew Lester, H. T. Huggins and Thomas Marshall were—

Messrs. Carpenter, Chase, Crandall, De La Guerra, Dosh, Johnson of Sacramento, Johnson of El Dorado, Mandeville, Melony, Merritt, Shaw, Taliaferro, Walkup, Westmoreland, Anderson, Aull, Barrett, Burch, Burns, Carpenter, Cassin, Coil, Covarrubias, Davidson, Estell, Fuller, Gilman, Graves, Hall, Hamm, Hare, Harrison, Holden, Howard, Hume, Hunt, Hunter, Irwin, Kendrick, Larue, Livermore, Long, McDonald, McKune, Miles of Santa Cruz, Miles of Sierra, Mitchell, Moore, O'Neill, Patrick, Pierce, Ricks, Rogers, Safford, Seawell, Showalter, Shuler, Turner, Underwood, Warrington, Wyman and Beatty—62.

Mr. Bell voted for Mr. Westmoreland.

Mr. Burnett voted for Mr. Cosby.

Mr. Bynum voted for Messrs. Westmoreland, Ferguson and McGee.

Mr. Coffroth voted for Messrs. Westmoreland, Ferguson and McGee.

Mr. Cosby voted for Messrs. Sheppard, Davidson and Cosby.

Mr. Fiske voted for Messrs. Catlin, Goodwin and Cosby.

Mr. Goodwin voted for Mr. Fiske.

Mr. Woodworth voted for Messrs. Shepard, Westmoreland and Ferguson.

Mr. Blake voted for Messrs. Shepard and Cosby.

Mr. Ferris voted for Messrs. Hall, Watkins and Hunt.

Mr. Miro voted for Messrs. Jessup, Moore and Clark.

Mr. Palmer, of San Francisco, voted for Messrs. Shepard, Davidson and Cosby.

Mr. Palmer, of Santa Clara, voted for Messrs. Burns, Phelps and Davidson.

Mr. Phelps voted for Messrs. Quimby, Hall and Patrick.



Mr. Shepard voted for Messrs. Cosby, Davidson and Phelps.

Mr. Stevenson voted for Messrs. Goodwin, Cosby and Coffroth

Mr. Watkins voted for Messrs. Bane, Brooks and Harlan.

Messrs. Andrew Lester, H. T. Huggins and Thomas Marshall having received a majority of all the votes cast, were declared duly elected Trustees of the State Insane Asylum, for the long term, according to law.

The Convention having concluded the elections, on motion of Mr. O'Neill, adjourned *sine die*, and the Senators retired to the Senate Chamber.

### IN SENATE.

Mr. Melony, Chairman of the Engrossing Committee, made the following report:

*Mr. President:*

The Committee on Engrossed Bills have examined Senate Bill No. 154, entitled an Act concerning the moneys in the State Treasury and to appropriate from the same for the civil expenses of the State from the first day of February, A. D. 1857, inclusive,—and find the same correctly engrossed.

A. R. MELONY,

Chairman.

March 13, 1857.

Mr. Westmoreland rose to a point of order relative to his vote given in secret session of the Court of Impeachment on yesterday.

Mr. Coffroth moved that the Senate do now adjourn.

Upon which the ayes and noes were demanded by Messrs. McCallum, Soule and Waite, with the following result:

#### AYES.

Messrs. Ashley, Bell, Chase, Coffroth, Cosby, Crandall, De La Guerra, Dosh, Johnson of Sacramento, Johnson of El Dorado, McGee, Merritt, Mesick, Taliaferro, Wilson and Woodworth—16.

#### NOES.

Messrs. Burnett, Bynnm, Carpenter, Ferguson of Sierra, Fiske, McCallum, Melony, Norman, Shaw, Soule, Waite and Walkup—12.

So the Senate adjourned.

Approved March 14th, 1857.

SAMUEL H. DOSH,

President Senate *pro tem*.

Attest:

GEO. S. EVANS, Secretary Senate.

## IN SENATE.

SATURDAY, March 14, 1857.

Senate met pursuant to adjournment.

President *pro tem.*, in the Chair.

Roll called.

Journals of yesterday read and approved.

On motion of Mr. Woodworth, leave of absence was granted to Mr. Sullivan for one day.

On motion of Mr. Waite, leave of absence was granted to Mr. Mandeville for one day.

Mr. Waite, by leave, read a communication from the Trustees of the State Insane Asylum, at Stockton, which was received and ordered filed.

Mr. Fiske presented a counter communication, and affidavit relative to the same matter, which was read and ordered to be filed.

Mr. Mesick offered the following resolution :

*Resolved*, by the Senate, (the Assembly concurring.) That a committee be appointed by the President of the Senate and Speaker of the Assembly, consisting of one from the Senate, and two from the Assembly, to visit the State Asylum for the Insane, at Stockton ; said committee to investigate all affairs of the Asylum, so far as it may be deemed expedient, from its founding to the present time ; and to report the facts coming within their knowledge in the progress of their investigations, and said committee are hereby empowered to send for persons and papers, and to administer oaths to witnesses.

Mr. Merritt moved to indefinitely postpone the resolution.

Mr. McCallum moved to lay the resolution on the table, which was lost.

The question recurring on the motion to indefinitely postpone was put and carried.

Mr. Ashley, Chairman of the Judiciary Committee, made the following report :

*Mr. President :*

The Judiciary Committee have had under consideration Senate bill No. 143, "an Act to amend an Act entitled an Act concerning Sheriffs," passed April 29, 1851, and beg leave to report the same back, and recommend its passage.

Also the committee has considered Senate bill No. 105, "an Act concerning Notaries Public," and report the same for the consideration of the Senate.

D. R. ASHLEY,

Chairman.

Report accepted and bills placed on the calendar.

Mr. De La Guerra, Chairman of the Committee on Agriculture, made the following report:

*Mr. President:*

Your committee to whom was referred Assembly bill No. 189, entitled "an Act concerning hogs found running at large in the counties of Colusa, Tehama and Butte," would respectfully report it back, and recommend its reference to the delegation from the counties included in this bill.

DE LA GUERRA,

Chairman.

Report read, and bill placed on calendar.

Mr. De La Guerra, Chairman of the Committee on Agriculture, also made the following report:

*Mr. President:*

Your Committee, to whom was referred "an Act amending an Act entitled an Act to prevent the trespassing of animals upon private property," passed March 21, 1855, have given it due consideration, and respectfully recommend its indefinite postponement.

PABLO DE LA GUERRA,

Chairman.

Report accepted and bill placed on calendar.

Mr. Mesick, Chairman of the Committee on Education, made the following report:

*Mr. President:*

Your Committee on Education, to which was referred Senate bill No. 113, entitled an Act amendatory of and supplementary to an Act to establish and regulate Common Schools, and to repeal former Acts concerning the same, approved May 3d, 1855, have considered the same, and respectfully recommend its passage.

R. S. MESICK,

Chairman.

Report accepted and bill placed on calendar.

Mr. Soule, Chairman of the Senate Committee of Free Conference, made the following report:

*Mr. President:*

The Committee of Free Conference to whom was referred Assembly Bill No. 15, an Act entitled An Act to guard against the destruction of property by means of sparks from chimneys of steamboats navigating the waters of this State, report that they have agreed upon the accompanying bill as a substitute for the original, and recommend its passage.

S. SOULE,

Chairman.

Report accepted.

Substitute read first and second times and placed on calendar.

Mr. Melony made the following report:

*Mr. President :*

Your committee to whom was referred Assembly Bill No. 193, entitled an Act to amend an Act entitled "An Act to adjust the amount of indebtedness of the County of Alameda to the County of Contra Costa and provide for the payment thereof, have had the same under consideration, and beg leave to report the same back and recommend its passage.

A. R. MELONY,

SAM. B. BELL.

On motion of Mr. Norman, the rules were suspended and the bill considered.

On motion of Mr. McCallum, the bill was read a third time and passed.

The following message was received from his Excellency the Governor:

STATE OF CALIFORNIA, EXECUTIVE DEPARTMENT, }  
Sacramento, March 13th, 1857. }

*To the Senate of the State of California :*

I have this day approved an Act to further extend the "Act concerning Corporations," passed April 22, 1850.

J. NEELY JOHNSON.

The following message was received from the Assembly:

*Mr. President :*

I am directed to inform the Senate that the Assembly on yesterday passed Assembly Bill No. 209, an Act amendatory and explanatory of an Act entitled "An Act amendatory to an Act entitled An Act to provide for the disposal of lots in the towns and villages on the public lands in Humboldt County, passed April 27th, 1855," approved April 3d, 1856.



Also, passed Assembly Bill No. 211, an Act to authorize the trustees of the Town of Eureka, in Humboldt County, to dispose of the proceeds arising from the sale of town lots in said town.

Also, Senate Bill No. 114, an Act supplementary to "An Act for securing liens to mechanics and others," passed April 19th, 1856.

Also, Senate Bill No. 79, an Act to amend an Act entitled "An Act to organize the County of Plumas," passed March 18th, 1854.

W. CAMPBELL,

Clerk Assembly.

March 13, 1857.

Assembly Bill No. 209 was read a first and second times.

On motion of Mr. Cosby, referred to Committee on Public Lands.

Assembly Bill No. 211 was read first and second times, and referred to the Committee on Corporations.

Mr. Walkup in the chair.

#### INTRODUCTION OF BILLS.

Mr. Norman introduced a bill entitled an Act to enforce more effectually the attendance of witnesses on the summons of either House of the Legislature of this State, and to compel them to discover testimony, which was read a first and second times.

On motion of Mr. Shaw, the rule was suspended, bill considered engrossed, read third time and passed.

Mr. Shaw introduced a bill entitled "An Act supplementary and amendatory of, an act in addition to and explanatory of, an act for securing liens to mechanics and others, approved March 4th, 1857, which was read first and second time and placed on the calendar.

Mr. Coffroth offered the following resolution:

*Resolved*, That in consideration of the extra work imposed upon the Secretary in consequence of the impeachment cases before the Senate, that the Secretary be and he is hereby authorized, to employ an extra clerk.

Upon the adoption of which, the ayes and noes were demanded by Messrs. Cosby, McCallum and Carpenter, and taken with the following result:

#### AYES.

Messrs. Ashley, Bell, Burnett, Bynum, Carpenter, Coffroth, Cosby, Crandall, De La Guerra, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Goodwin, Johnson of Sacramento, McGee, Melony, Mesick, Shaw, Soule, Taliaferro, Walkup, Westmoreland, Wilson and Woodworth—24.

## NOES.

Messrs. Fiske, McCallum, Merritt and Norman—4.

So the resolution was adopted.

Mr. Crandall, Chairman of the Committee on Enrolled Bills, made the following report:

*Mr. President :*

The Committee on Enrolled Bills have examined and found correctly enrolled, an Act to fix the time of holding the Courts of Sessions and the County Courts of Sacramento county.

Also, an Act supplementary to an act for securing liens to mechanics and others, passed April 19th, 1856.

Also, an Act to amend an act entitled "An Act to organize the county of Plumas," passed March 18th, 1854.

D. CRANDALL,

Chairman.

Mr. McCallum moved to rescind the order by which Senate Bill No. 1, an Act recommending to the electors to vote for or against a Convention to revise and change the Constitution of this State, was made the special order for the 19th instant.

Upon which, the ayes and noes were demanded by Messrs. McCallum, Merritt and Carpenter, and taken with the following result:

## AYES.

Messrs. Ashley, Carpenter, Cosby, De La Guerra, Ferguson of Sierra, Fiske, Johnson of Sacramento, McCallum, McGee, Shaw, Soule, Waite, Walkup and Wilson—14.

## NOES.

Messrs. Bell, Burnett, Bynum, Chase, Crandall, Dosh, Ferguson of Sacramento, Goodwin, Johnson of El Dorado, Melony, Mesick, Norman, Taliaferro, Westmoreland and Woodworth—15.

So the motion was lost.

The Senate and Assembly resolutions to adjourn on the 4th and 10th of March, respectively, being the special orders of the day, and the hour having arrived for their consideration, was taken up, and on motion of Mr. Fiske, laid on the table.

## GENERAL FILE.

Senate Bill No. 149, an Act to provide for the indebtedness of the county of Shasta, contracted prior to the first day of March, A. D. 1857, was referred to the Delegation from Shasta county.

Senate Bill No. 151, an Act to amend an act entitled "An Act defining the rights of husband and wife," passed April 17th, 1850, was considered in Committee of the Whole, reported back to the Senate without amendments and ordered engrossed, and read a third time.

Senate Bill No. 150, an Act making appropriations for the civil expenses of the government, was, by leave, withdrawn by Mr. McCallum.

Senate Bill No. 152, an Act to grant H. M. Stone the right of way across the Sacramento river, was, on motion, considered engrossed, read a third time and passed.

Senate Bill No. 11, an Act to legalize certain records in Solano county, was ordered engrossed and read a third time.

Assembly Bill No. 210, an Act to change and fix the county seat of the county of Yolo, was read a third time and passed.

Assembly Bill No. 215, an Act to grant to certain parties the right of laying a railroad track along certain streets within the city and county of San Francisco, was read a third time and passed.

Senate Bill No. 156, an Act to establish the county seat of Tehama county, was read a third time and passed.

Senate Bill No. 143, an Act to amend an act entitled "An Act concerning Sheriffs," passed April 29th, 1851, was ordered engrossed and read a third time.

#### UNFINISHED BUSINESS.

Senate bill No. 142, an Act to prohibit noisy and barbarous amusements, and opening places of business on Sunday, was on motion of Mr. McCallum, taken up and considered in Committee of the Whole, and reported back to the Senate with amendments.

In Senate.

Mr. Coffroth moved to strike out the enacting clause, upon which the ayes and noes were demanded by Messrs. Fiske, Soule and McCallum, and taken with the following result:

AYES.

Messrs Coffroth, De La Guerra, Ferguson of Sierra, Johnson of Sacramento, McGee, Melony, Merritt, Mesick, Taliaferro, Westmoreland, Wilson and Woodworth—12.

NOES.

Messrs. Ashley, Bell, Burnett, Carpenter, Chase, Cosby, Crandall, Dosh, Fiske, Goodwin, Johnson of El Dorado, McCallum, Shaw, Soule, Waite and Walkup—16.

So the motion was lost.

Mr. Woodworth moved the indefinite postponement of the whole subject matter.

Mr. McCallum demanded the previous question, which was not sustained.

Mr. Carpenter moved to strike out all that portion relating to merchandise, upon which the ayes and noes were demanded by Messrs. Cosby, Melony and Westmoreland, and taken with the following result:

#### AYES.

Messrs. Ashley, Carpenter, Coffroth, Ferguson of Sierra, Johnson of Sacramento county, McGee, Melony, Merritt, Mesick, Waite and Walkup—11.

#### NOES.

Messrs. Bell, Burnett, Chase, Cosby, Crandall, De La Guerra, Dosh, Fiske, Goodwin, Johnson of El Dorado, McCallum, Shaw, Soule, Taliaferro, Westmoreland and Wilson—16.

So the motion was lost.

Mr. De La Guerra offered the following amendment:

"Section —. The provisions of this Act shall not extend to the Counties of San Diego, Santa Barbara, San Luis Obispo, San Bernardino, or Los Angeles."

Mr. Johnson of Sacramento, moved to exempt Sacramento.

Mr. Westmoreland moved to exempt Placer County.

Mr. McGee moved to exempt Plumas County.

Mr. Taliaferro moved to exempt Marin County.

Mr. Merritt moved to exempt Mariposa, Tulare, Fresno and Merced Counties.

Mr. Coffroth moved to exempt Tuolumne and Stanislaus Counties.

Mr. Ferguson of Sacramento, moved to exempt Sierra County.

All of which were accepted by Mr. De La Guerra.

Mr. McCallum moved the previous question, which was not sustained.

The question recurring on the amendment, was put and lost.

Mr. Ashley moved to insert after the word "sale," in the 11th line, the words "after that hour," which was adopted.



Mr. Westmoreland moved to insert "or who shall open any printing office or do any work therein, which was lost.

The question being, "Shall the bill be ordered engrossed and read a third time?" the ayes and noes were demanded by Messrs. Fiske, Soule and De La Guerra, and taken with the following result:

AYES.

Messrs. Bell, Burnett, Chase, Cosby, Crandall, Dosh, Fiske, Goodwin, Johnson of El Dorado, Shaw, Soule and Waite—12.

NOES.

Messrs. Carpenter, Coffroth, De La Guerra, Ferguson of Sacramento, Ferguson of Sierra, Johnson of Sacramento, McCallum, McGee, Melony, Merritt, Taliaferro, Walkup, Westmoreland and Wilson—14.

So the Senate refused to order the bill engrossed.

Mr. McCallum gave notice that on Monday next he would move a reconsideration of the vote by which the Senate refused to order the bill engrossed.

Mr. Crandall, Chairman of the Committee on Enrollment, made the following report :

*Mr. President :*

The Committee on Enrolled Bills have examined an Act concerning the moneys in the State Treasury, and to appropriate from the same for the Civil Expenses of the State from the first day of February, A. D. 1857, inclusive, and find the same correctly enrolled.

D. CRANDALL,

March 14, 1857. Chairman.

Mr. Melony, Chairman of the Committee on Engrossment, made the following report :

*Mr. President :*

The Committee on Engrossed Bills have examined Senate bill No. 131, entitled an Act to authorize the Treasurer of State to issue bonds for the Payment of Expenses incurred by the Siskiyou Expedition against the Indians during the year 1856, and find the same correctly engrossed.

A. R. MELONY,

March 14, 1857. Chairman.

Mr. Burnett gave notice that at an early day he will introduce a bill for an Act to amend an Act entitled an Act concerning Jurors, passed May 3d, 1852.

On motion of Mr. Coffroth, the Senate adjourned.

Approved March 16th, 1857.

S. H. DOSH,  
President Senate *pro tem.*

Attest:

GEO. S. EVANS, Secretary Senate.

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## IN SENATE.

MONDAY, March 16, 1857.

Senate met pursuant to adjournment.

President *pro tem.* in the Chair.

Roll called.

Journals of Saturday read and approved.

Leave of absence was granted to Mr. Sullivan and Mr. Goodwin for two days.

Leave of absence was granted to Mr. Woodworth and Mr. Mandeville for one day.

Mr. Chase presented the petition of citizens of Nevada City against the repeal of the Act incorporating said city.

On motion, referred to the delegation from Nevada.

Mr. McGee, Chairman of Special Committee, made the following report:

*Mr. President:*

Your committee to whom was referred a bill reorganizing the Eighth, Ninth and Fifteenth Judicial Districts, report the same back with amendments, and recommend its passage.

JOHN B. MCGEE.

Substitute for section sixth—

"There shall be elected at the general election in the year 1857, by the counties comprising the Fifteenth Judicial District, a District Judge, who shall hold

his office for four years from and after the first day of January, 1858, and his successor shall be elected at the general election next preceding the expiration of said term, and shall hold his office for a term of six years."

Report accepted and bill placed on calendar.

Mr. Merritt, by leave, presented the petition of citizens of Mariposa, praying the passage of a law authorizing G. W. Coulter and L. H. Barnwell, to construct a wagon road to the Yo-Semity Valley.

On motion, referred to the Committee on Internal Improvements.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly have this day concurred in Senate amendments to Assembly Bill No. 248, an Act for the relief of the State Prison.

Also, that the Assembly on Saturday concurred in Senate Concurrent Resolutions, requesting the Governor to return an enrolled bill to limit the time for presentation of claims against counties.

Also, have concurred in report of Committee of Conference on Senate Bill No. 97, an Act to amend an Act entitled "An Act concerning the Board of Supervisors of Placer County," approved February 4th, 1857.

Also, that the Assembly have passed Senate Bill No. 154, an Act concerning the money in the State Treasury, and to appropriate from the same for the civil expenses of the State from the first day of February, 1857, inclusive.

W. CAMPBELL,

Clerk Assembly.

#### INTRODUCTION OF BILLS.

Mr. Carpenter introduced a bill entitled an Act to amend an Act entitled "An Act to regulate elections, passed March 23, 1850."

Read first and second time, and referred to the Committee on Elections.

Mr. Merritt introduced a bill entitled an Act in relation to a Stage and Wagon Road from Anito, in Bold Creek, Mariposa County, to Yosenity Valley, in said County.

Read first and second time, and referred to the Committee on Internal Improvements.

Mr. Waite introduced a bill entitled an Act concerning the Officers of the State Asylum for the Insane.

Read first and second time, and referred to the Committee on Hospitals.

Mr. Bell introduced a bill entitled an Act supplementary to an Act entitled "An Act to exempt the Homestead and other property from forced sale in certain cases, passed April 21st, 1851."

Read first and second time, and referred to the Judiciary Committee.

Mr. McCallum, in accordance with previous notice given, moved to reconsider the vote by which the Senate refused to order engrossed Senate bill No.

142—an Act to prohibit noisy and barbarous amusements, and opening places of business on Sunday.

The ayes and noes were demanded by Messrs. Coffroth, Taliaferro and Merritt, and taken with the following result:

AYES.

Messrs. Ashley, Bell, Burnett, Bynum, Chase, Cosby, Crandall, Dosh, Fiske, Johnson of El Dorado, McCallum, Norman, Shaw, Soule, Waite and Walkup---16.

NOES.

Messrs. Carpenter, Coffroth, De La Guerra, Ferguson of Sacramento, Ferguson of Sierra, Johnson of Sacramento, McGee, Melony, Merritt, Mesick, Taliaferro, Westmoreland and Wilson—13.

So the motion to reconsider was carried.

Mr. Melony moved to make the bill the special order of the day for Friday next.

Upon which the ayes and noes were demanded by Messrs. Cosby, Fiske and Johnson of El Dorado, and taken with the following result:

AYES.

Messrs. Carpenter, Coffroth, De La Guerra, Ferguson of Sacramento, Ferguson of Sierra, Johnson of Sacramento, McGee, Melony, Merritt, Mesick, Taliaferro, Westmoreland and Wilson—13.

NOES.

Messrs. Ashley, Bell, Burnett, Bynum, Chase, Cosby, Crandall, Dosh, Fiske, Johnson of El Dorado, McCallum, Norman, Shaw, Soule, Waite and Walkup—16.

So the motion was lost.

The question being: "Shall the bill be engrossed and read a third time?"

Mr. Walkup moved to amend by striking out all "relating to merchandize."

Mr. Cosby moved to reconsider the vote by which the Senate, on Saturday, refused to strike out the above clause, which was put and carried.

The question being on the amendment of Mr. Walkup, the ayes and noes were demanded by Messrs. Coffroth, Walkup and Ferguson of Sierra, and taken with the following result:

AYES.

Messrs. Ashley, Carpenter, Coffroth, Cosby, De La Guerra, Ferguson of Sacramento, Ferguson of Sierra, Johnson of Sacramento, McGee, Melony, Merritt, Mesick, Taliaferro, Walkup, Westmoreland and Wilson—16.



## NOES.

Messrs. Bell, Burnett, Bynum, Chase, Dosh, Fiske, Johnson of El Dorado, McCallum, Norman, Shaw and Soule—11.

So the amendment was adopted.

Mr. McCallum moved to strike out "ten dollars" where it occurs in section first, and insert "fifty dollars," upon which the ayes and noes were demanded by Messrs. McCallum, Cosby and Soule, and taken with the following result :

## AYES.

Messrs. Bell, Burnett, Bynum, Carpenter, Chase, Cosby, Crandall, Dosh, Fiske, Johnson of El Dorado, McCallum, Mesick, Shaw, Soule and Walkup—15.

## NOES.

Messrs. Ashley, Coffroth, De La Guerra, Ferguson of Sacramento, Ferguson of Sierra, Johnson of Sacramento, McGee, Melony, Merritt, Norman, Taliaferro, Westmoreland and Wilson—13.

So the motion was carried.

Mr. De La Guerra moved to strike out all that relates to theaters, concerts, &c.

After much debate, Mr. Norman moved the previous question, which was sustained.

The question being shall the main question be now put—was put and carried.

The main question being on the motion of Mr. De La Guerra, to strike out, the ayes and noes were demanded by Messrs. Norman, McCallum and Fiske, and taken with the following result :

## AYES.

Messrs. Coffroth, De La Guerra, Ferguson of Sacramento, Johnson of Sacramento, Merritt, Taliaferro, Westmoreland and Wilson—8.

## NOES.

Messrs. Ashley, Bell, Burnett, Bynum, Carpenter, Cosby, Crandall, Dosh, Ferguson, of Sierra, Fiske, Johnson of El Dorado, McCallum, McGee, Melony, Mesick, Norman, Shaw, Soule, Waite and Walkup—20.

So the Senate refused to strike out.

Question, "Shall the bill be engrossed and read a third time?" was put and carried.

Mr. McGee gave notice that he would at an early day, introduce a bill "giving to the counties of Butte and Plumas two Senators."

On motion of Mr. Bell, the Secretary was directed to request the Assembly to return Senate bill No. 152, "an Act granting to H. M. Stone the right of way across the Sacramento river.

Mr. Bell gave notice that he would on to-morrow introduce into the Senate a bill to be entitled "an Act additional to an Act to regulate proceedings in Civil Cases in the Courts of Justice of this State," passed April 27th, 1851, which bill proposes to add to the 219th section of said Act only.

#### GENERAL FILE.

Senate bill No. 131, an Act to authorize the Treasurer of the State to issue bonds for the Payment of Expenses incurred by the Siskiyou Expedition against the Indians in the year 1856, was read a third time.

Mr. Shaw moved to amend by inserting at the end of Section third—"Provided, that no allowance shall be made to any officer or soldier engaged in said war exceeding the amount fixed by law."

Amendment adopted, and the bill passed as amended.

Mr. Coffroth, by leave, introduced a bill entitled an Act amendatory and supplemental to an Act entitled an Act to provide for the disposal of the five hundred thousand acres of Land granted to this State by Act of Congress, passed May 3d, 1852.

Read, first and second times, and, on motion, referred to the Committee on Public Lands, and 240 copies ordered printed.

Mr. De La Guerra, by leave, made the following report :

*Mr. President :*

The undersigned, to whom was referred Assembly bill No. 112, an Act providing for the Payment of the Debt of San Luis Obispo County, having duly considered said bill, report the same back with a substitute, entitled "An Act to provide for the Payment of the Debts of the Counties of San Luis Obispo and Santa Barbara," and recommend the passage of the substitute.

#### DE LA GUERRA.

Report received, and, on motion of Mr. Coffroth, the substitute was adopted, read first and second times, and placed on calendar.

Senate bill No. 105, an Act concerning Notaries Public, was considered in Committee of the Whole and reported back to the Senate without amendment.

In Senate, Mr. Shaw moved the indefinite postponement of the bill.

Mr. Ashley offered the following amendment :

In first Section, strike out from the first line to "San Francisco," third line, and insert—"The Governor shall have power to appoint and commission fourteen Notaries Public for the County of San Francisco, and ten for each of the Counties of ———."

Adopted.

The question recurring on Mr. Shaw's motion to indefinitely postpone, the ayes and noes were demanded by Messrs. Merritt, Westmoreland and Cosby, and taken with the following result :

## AYES.

Messrs. Carpenter, Crandall, Dosh, Ferguson of Sierra, McCallum, Norman, Shaw, Soule, Walkup and Wilson—10.

## NOES.

Messrs. Ashley, Burnett, Bynum, Coffroth, Cosby, De La Guerra, Ferguson of Sacramento, Fiske, Johnson of Sacramento, Johnson of El Dorado, Melony, Merritt, Mesick, Waite and Westmoreland—15.

Mr. Bell declined voting.

So the Senate refused to indefinitely postpone.

Mr. Walkup moved a call of the Senate.

Lost.

Mr. Walkup moved to postpone the further consideration of the bill until the 15th of May next.

Mr. Burnett moved the previous question, which was sustained.

Question—"Shall the main question be now put?"

Mr. Walkup moved a call of the Senate, upon which the ayes and noes were demanded by Messrs. Walkup, Shaw and Soule.

Mr. Coffroth rose to a point of order, that a call of the Senate could not be had pending the previous question, and referred to the rules of the Senate.

The Chair decided the point of order well taken.

The question recurring, "Shall the main question be now put?" was put and carried.

The main question being—"Shall the bill be engrossed and read a third time?" was put, and the bill ordered engrossed and read a third time.

Mr. Westmoreland, by leave, offered the following resolution :

*Resolved*, That the Assembly be requested to return to the Senate, Assembly bill No. 206, entitled an Act to prescribe the mode of drawing Grand Jurors and Trial Jurors in the City and County of San Francisco.

Mr. Walkup rose to a point of order: "That the resolution could not be considered; the bill having passed both Houses, and being in the hands of the Enrolling Committee of the House, was out of the control of the Senate."

The Chair ruled the point of order not well taken.

The question being on the passage of the resolution, the ayes and noes were demanded by Messrs. Westmoreland, Coffroth, and Melony, and taken, with the following result:

AYES.

Messrs. Chase, Coffroth, Cosby, Ferguson of Sacramento, Johnson of El Dorado, McGee, Melony, Merritt, Mesick, Taliaferro and Westmoreland—11.

NOES.

Messrs. Ashley, Bell, Burnett, Bynum, Carpenter, Crandall, Dosh, Ferguson of Sierra, Fiske, Johnson of Sacramento, McCallum, Norman, Shaw, Soule, Waite, Walkup and Wilson—17.

So the resolution was lost.

Senate bill No. 144, "An Act amendatory of an Act entitled an Act to prevent the trespassing of Animals upon Private Property," reported on the 14th instant by the Committee on Agriculture, with a recommendation that it be indefinitely postponed, was considered.

Mr. Bell moved to recommit to Committee on Agriculture, with special instructions; which was lost.

Mr. Burnett offered the following amendment:

"This Act shall have effect only in the County of Alameda."

The amendment was adopted.

Mr. Bell moved to refer the bill to the delegation from Alameda; which was carried.

Assembly bill No. 189, An Act concerning Hogs found running at large in the Counties of Colusa, Tehama and Butte, was referred to the delegation from Butte and Tehama.

Senate bill No. 113, An Act amendatory of and supplementary to an Act to establish, support, and regulate Common Schools, and to repeal former Acts concerning the same, approved May 3, 1855, was placed at the foot of the calendar.

Mr. Johnson, of Sacramento, by leave gave notice, that at an early day he will introduce a bill to provide Revenue for the support of the Government of this State.

Mr. Crandall, Chairman of the Committee on Enrollment, made the following report:



*Mr. President:*

The Committee on Enrolled Bills have examined and found correctly enrolled, Senate bill No. 78, an Act concerning the Harbor Master of the Port of San Francisco.

Also, Senate bill No. 118, an Act to authorize the Board of Supervisors of Calaveras county to levy a special Tax to redeem County Warrants.

Also, an Act to grant H. M. Stone the Right of Way across the Sacramento river.

D. CRANDALL,

Chairman.

Mr. Fiske, Chairman of the Committee on Internal Improvements, made the following report, by leave:

*Mr. President:*

The Committee on Internal Improvements, to whom was referred Senate bill No. 161, entitled an Act in relation to a Stage and Wagon Road from Anito on Bald Creek, Mariposa County, to Yosemite Valley, in said County, have had the same under consideration, and after giving the same the careful attention which its great importance to the people of the State at large demands, recommend that the same pass without amendment.

All of which is respectfully submitted.

HENRY M. FISKE,

Chairman.

Report accepted and bill placed on calendar.

Mr. Melony, Chairman of the Committee on Engrossment, made the following report:

*Mr. President:*

The Committee on Engrossed Bills have examined Senate bill No. 151, entitled an Act to amend an act entitled "an Act defining the rights of husband and wife," passed April 17, 1851, and find the same correctly engrossed.

A. R. MELONY,

Chairman.

March 16th, 1857.

Mr. Burnett moved that the Senate adjourn, upon which the ayes and noes were demanded by Messrs. Coffroth, Fiske and Johnson of El Dorado, and taken with the following result.

AYES.

Messrs. Bell, Burnett, Crandall, Ferguson of Sierra, Fiske, McGee, Melony, Waite and Westmoreland—9.

NOES.

Messrs. Ashley, Bynum, Chase, Coffroth, Dosh, Johnson of Sacramento, Johnson of El Dorado, McCallum, Norman, Shaw, Soule, Walkup and Wilson—14.

So the Senate refused to adjourn.

Mr. Merritt moved that the rules be suspended that he might offer a resolution directing the Committee on Public Printing to report on Senate bill No. 17 tomorrow, upon which the ayes and noes were demanded by Messrs. Merritt, Coffroth and Norman, and taken with the following result:

## AYES.

Messrs. Bell, Burnett, McCallum, McGee, Merritt, Norman, Shaw, Waite, Walkup and Wilson—10.

## NOES.

Messrs. Ashley, Bynum, Chase, Coffroth, Crandall, Dosh, Ferguson of Sierra, Fiske, Johnson of Sacramento, Johnson of El Dorado, Melony, Mesick, Soule, Taliaferro and Westmoreland—15.

So the Senate refused to suspend the rules.

Mr. Fiske moved to adjourn, which was lost.

Senate substitute to Assembly bill No. 15, an Act to guard against the destruction of property by fire by means of sparks from the chimneys of steamboats navigating the waters of this State, substitute adopted, ordered engrossed and read a third time.

Mr. Fiske moved to adjourn.

Lost.

Senate Bill No. 158, an Act supplementary and amendatory of an Act in addition to and explanatory of "An Act for securing liens to mechanics and others," approved March 4th, 1857, was, on motion of Mr. Bell, referred to the Judiciary Committee.

Mr. Burnett moved that the Senate adjourn.

The ayes and noes were demanded by Messrs. Melony, Fiske and Johnson of El Dorado, and taken with the following result:

## AYES.

Messrs. Ashley, Bell, Burnett, Crandall, Dosh, Ferguson of Sierra, Fiske, McGee, Merritt, Mesick, Taliaferro and Waite—12.

## NOES.

Messrs. Bynum, Chase, Coffroth, Johnson of Sacramento, Johnson of El Dorado, McCallum, Melony, Norman, Soule, Walkup and Wilson—11.

So the Senate adjourned.

Approved March 17th, 1857.

S. H. DOSH,  
President Senate *pro tem.*

Attest:

GEO. S. EVANS, Secretary Senate.

## IN SENATE.

TUESDAY, March 17th, 1857.

Senate met pursuant to adjournment.

President *pro tem.* in the Chair.

Roll called.

Journals of yesterday read and approved.

Mr. Crandall, Chairman of the Committee on Enrolled Bills, made the following report:

*Mr. President :*

Your Committee on Enrolled Bills have this day presented to his Excellency, the Governor, for his approval, the following bills:

An Act concerning the Moneys in the State Treasury, and to appropriate from the same for the Civil Expenses of the State, from the first day of February, A. D. 1857, inclusive.

Also, an Act to fix the Time of holding the Courts of Sessions and the County Courts of Sacramento county.

Also, an Act to amend an Act concerning Evidence, passed February 5, 1856.

Also, an Act supplementary to and to amend an Act concerning the Debt and the Current Expenses of the County of Monterey, and to provide for the funding and the payment of the same, approved April 19, 1856.

Also, an Act to amend an Act entitled an Act to organize the County of Plumas, passed March 18, 1854.

Also, an Act to authorize the Board of Supervisors of Calaveras county to levy a special Tax to redeem County Warrants.

Also, an Act concerning the Harbor Master of the Port of San Francisco.

Also, an Act to grant H. M. Stone the Right of Way across the Sacramento river.

Also, an Act supplementary to an Act for securing Liens to Mechanics and others, passed April 19, 1857.

D. CRANDALL,

Chairman.

Mr. Burnett, from the Committee on Claims and Accounts, made the following report:

*Mr. President:*

The Sub-Committee of the Committee on Claims, to whom was referred the memorial of James Smiley, together with many vouchers, supply bills, and other papers presented in support thereof, beg leave to make the following report:

The first claim investigated by your Committee, was one amounting to the sum of thirty-two thousand two hundred and sixteen dollars and forty-eight

cents, (\$32,216 48,) for supplies furnished the State Prison at San Quentin during the months of June, July, August, September, October and November, 1855.

Your Committee find from the vouchers, and from the testimony of Major John S. Love, who came before them, that the provisions and other articles mentioned in the bills for supplies, were actually furnished at the State Prison during the months referred to. (See Major Love's affidavit, herewith submitted, marked "C.")

The high rates of prices ranging through the whole of these supply bills induced the Committee to have them copied, for the purpose of affixing to each article furnished such a sum or price as should be just. To this end the Committee summoned before them several merchants in good standing in this city, who were in business at the time the supplies were furnished, from whose testimony, taken before us, schedules marked respectively "Schedule No. 1, Hardware, &c.," and "Schedule No. 2, Provisions, &c.," were prepared.

In determining upon the prices as fixed in the accounts as finally made up, your Committee have to report that they were guided by the prices named in said schedules upon all articles therein mentioned; that the prices of lumber, coal and several other articles, were learned from reliable dealers in such articles in this city, while the remainder were fixed upon the personal knowledge and judgment of members of the Committee, but that the Committee relied upon their own judgment alone only as to those things with the prices of which they were familiar. In all cases, except where such a course would do rank injustice, the Committee have affixed the wholesale cash prices prevailing in San Francisco at the time that the supplies were furnished.

Your Committee found in carrying out the amounts in the bills, that they had placed too high a value upon a few articles, and in order to correct this inaccuracy without copying all the bills already gone through with, your Committee corrected such excess by cutting down the prices of other articles to an equal extent below their actual value.

From the accounts current, as carefully prepared and corrected and herewith presented, marked respectively D, E, F, G, H and I, it will be seen that the Committee have found that there were supplies furnished the State Prison by James Smiley, in the month of June, 1855, amounting to the sum of. . . . \$6,301 13  
 In the month of July . . . . . 1,623 06  
 In the month of August . . . . . 5,065 32  
 In the month of September . . . . . 4,207 99  
 In the month of October . . . . . 2,585 29  
 In the month of November . . . . . 4,078 81

Amounting in all to. . . . . \$23,861 60

From the foregoing, it will be seen that the original bills amounted to the sum of. . . . . \$32,216 48

Same bills, with prices corrected by your Committee, to. . . . . 23,861 60

Amount deducted by Committee from original bills. . . . . 8,354 88

Prominent among the claims presented by Mr. Smiley, we find that for material and labor furnished in erecting the State Prison wall at San Quentin, and for material and labor furnished in improving the State Prison and the Prison grounds, the memorialist claims to have erected said wall in good faith, under a contract entered into with the Wardens of the State Prison in pursuance of the provisions of



section 8th of an act entitled "An Act to provide for the government of the State Prison," approved May 7th, 1855, which provided for the erection of a wall at the State Prison.

The Committee are of opinion that in good faith Mr. Smiley entered into a contract with the Wardens to build a wall, and find that in pursuance of his contract and of section 8th of the act above referred to, he erected a good and substantial wall; that he furnished the materials used in the erection of the wall, with the exception of the stone and bricks, and that he furnished the labor employed, with the exception of the convict labor in attending upon the mechanics; that there was laid in the wall 186,767 cubic feet of stone work, and that such stone work was worth forty cents per cubic foot; amounting to the sum of \$74,706 80.

In estimating the number of cubic feet of stone work, we were guided by the measurement of the mechanics who measured the whole work in the wall during the last session of the Legislature. Those mechanics were five in number, one an architect, one a surveyor of work, one a contractor, and two were builders. Those gentlemen were employed by members of the Joint Committee sent down at that time to inspect the State Prison, and, in the opinion of your Committee, made the most full measurement of the stone work taken since the erection of the wall, extending down to the foot of the wall at points where it had its greatest depth below the surface of the ground. It was necessary to the end of erecting a stone work, that the wall should in many places where the foundation was deep in the earth exceed in thickness, that provided for in the contract; and we are of opinion that the mechanics who measured the work would have done but justice if they had allowed for such extra thickness in computing the number of cubic feet in the wall.

In estimating the value of the stone work per cubic foot, we had the assistance of competent contractors and builders, among whom are G. M. Vaughn and J. L. Edwards, whose affidavits are herewith presented, marked J and K, respectively. By their affidavits, it will be seen that such work is worth 20 cents per cubic foot in the western States, and that the same work here is worth two or three times eastern prices.

We also find that there were 1,309,605 bricks laid in the wall, for which the contractor should receive \$10 per thousand, amounting to the sum of \$13,096 05.

In reporting upon the number of bricks laid in the wall, and the prices for laying the same, we have to be guided by the measurement of the Joint Committee of last year, and by their estimate of the cost, which we find, upon inquiry, to have been correct. That Committee computed the brick work at 21 bricks to the cubic foot, thus reducing the number of bricks below that claimed by Mr. Smiley under Maj. Love's measurement, 64,691 bricks.

The contractor also laid 2,060 feet of stone coping, which we find to be worth, for laying the same, the price charged by him, viz: eight dollars per foot; amounting to the sum of \$16,480. This is one dollar per foot below the price allowed by the Joint Committee of last year, and the number of feet is 52 feet less than as per measurement of that Committee.

Your Committee have also corrected Mr. Smiley's account for materials and labor furnished in improving the Prison and Prison grounds, and give the following as their corrected account of the same:

40 steps, @ \$15 each.....	\$600 00
95 days mason work, @ \$8.....	1,100 00
69 barrels cement, @ \$7.....	483 00
43 barrels lime, @ \$3.....	129 00
Hauling 1,309½ loads bricks, @ \$1.....	1,309 50
8,000 lbs. iron in gate, @ 10 cents.....	800 00
<b>Total.....</b>	<b>\$4,421 50</b>

A bill for hauling 8,865 loads of dirt, at  $37\frac{1}{2}$  cents per load, and amounting to \$3,324 37, we have thrown out, for the reason that it was the duty of the contractor to make all excavations necessary to the building of the wall.

By virtue of orders drawn in favor of the memorialist, by the State Prison Directors, on the Controller of State, for the labor and materials furnished in erecting the Prison wall, the Controller of State did, on the fourth day of December, 1855, issue to the memorialist warrants upon the Treasury for the sum of \$125,157 84.

By an Act of the Legislature, approved May 30th, 1856, the registration of said warrants was cancelled and annulled, and the State Treasurer prohibited from paying them; nor was the amount set forth in said warrants allowed to be funded, under the Funding Act approved April 19th, 1856. Said warrants were thus rendered worthless to the memorialist, and he has rendered the same into the hands of the Legislature, and asks that he may be paid a just amount for the materials and services that he has rendered to the State. Your Committee cannot deny the justice of his request, believing, as they do, that the officers of the State contracted with him, giving him every assurance that he would be paid when his work was done.

The State received his goods, wares and labor, through their agent; the prisoners of the State were fed with his provisions, and were clothed with clothing that he furnished, and no agent of the State made any attempt to return the goods, victuals and clothing to him who had furnished them.

If any individual does not approve of the purchase of his agent he must either pay for them or return the articles bought, if the agent has exceeded his authority. In purchasing provisions and clothing the agents of the State did not exceed their authority, and justice calls for as much honesty in a State as in an individual; therefore, as the State did not return the goods, she ought to pay for them. The wall should be paid for because of its being a good and substantial and useful piece of work; one that the State would not like to part with, and one that could not, in the opinion of your Committee, be erected at this time for a less amount than we have affixed to the work. Your Committee recommend that there be allowed to James Smiley for the stone work of the Prison wall the sum of.....\$74,706 80

For the brick work..... 13,096 05

For the stone coping..... 16,480 00

For the supplies..... 23,861 60

Improving Prison and adjoining grounds..... 4,421 50

\$132,565 95

And the amount of \$132,565 95 be included in any Act adopted by the Senate at this session of the Legislature that shall provide for submitting the alleged indebtedness of the State to a direct vote of the people. We have confidence that this will be done, and have only to say in conclusion, that the above amount of \$132,565 95, is \$26,929 38 less than the claims as presented by Mr. Smiley, which claim as presented amounted to the sum of \$159,595 33.

W. C. BURNETT,  
HENRY M. FISKE,

Sub-Committee of Committee on Claims.

Report accepted, and on motion, laid on the table.

Mr. Waite, Chairman of the Committee on Corporations, to whom was referred Senate bill No. 141, "an Act supplemental to an Act entitled an Act to provide for the formation of corporations," passed April 14th, 1853, reported the same back to the Senate, and recommended that the usual number of copies be printed.

Report accepted, and 240 copies of the bill ordered printed.

The following message was received from the Assembly :

*Mr. President :*

I am directed to inform the Senate that the Assembly, on the 6th inst., passed Assembly bill No. 181, "an Act to provide for funding the indebtedness of the county of Klamath.

Also, on to-day passed Assembly bill No. 187, "an Act to provide for the licensing of passenger brokers."

W. CAMPBELL,

Clerk of Assembly.

Assembly bill No. 181, was read first and second time, and on motion of Mr. Shaw, referred to the delegation from Klamath.

Assembly Bill No. 187, was read first and second time, and on motion of Mr. Ashley, referred to the Committee of the Whole, for to-morrow at 11 o'clock.

The following message was received from the Assembly:

*Mr. President:*

The Assembly on Saturday, the 14th inst., elected Hon. Jas. O'Neill, Speaker *pro tempore*.

J. W. SCOBEE,

Assistant Clerk.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly, on the 12th instant, passed Assembly Bill No. 98, an Act to fix the compensation and pay of members of the Senate and Assembly of the State of California.

Also, on the 9th instant, Assembly Bill No. 143, an Act to amend an Act entitled "An Act to aid the officers in the Indian Department, appointed by the General Government for the State of California, in the discharge of their duties."

Also, on to-day, Senate Bill No. 152, an Act to grant H. M. Stone the right of way across the Sacramento River.

W. CAMPBELL,

Clerk of Assembly.

Assembly Bill No. 98 was read first and second times.

On motion of Mr. McGee, referred to the Judiciary Committee.

Assembly Bill No. 143 was read a first and second times, and, on motion, referred to the Committee on Military Affairs.

The following message was received from the Assembly:

*Mr. President :*

I am directed to inform the Senate that the Assembly on yesterday, the 16th inst., passed Assembly Bill No. 212, an Act supplementary to an Act entitled "An Act to provide for the appointment and prescribe the duties of Guardians."

Also, Assembly Bill No. 216, amendatory of an Act entitled "An Act amendatory of 'An Act to fund the debt of Contra Costa County and to provide for the payment of the same, approved February 14, 1855,' approved April 30th, 1856."

Also, Assembly Bill No. 207, an Act supplementary to an Act entitled "An Act to provide for the formation of corporations for certain purposes," passed April 14, 1853.

Also, Assembly Bill No. 254, an Act concerning delinquent taxes in certain counties of this State."

Also, Assembly Bill No. 142, an Act to authorize the Board of Supervisors of the County of Yuba, to take and subscribe \$200,000 to the capital stock of the Benicia and Marysville Railroad, or other Railroad Company, and to provide for the payment of the same, and other matters relating thereto.

Also, with amendments, Senate Bill No. 95, an Act to authorize the executor or administrator of the estate of Josefa Soto de Stokes, deceased, to sell the real estate of said deceased at public or private sale.

W. CAMPBELL,

Clerk of Assembly.

Assembly bill No. 212 was read first and second time; and, on motion of Mr. Shaw, referred to the Judiciary Committee.

Assembly bill No. 216 was read first and second time; and, on motion of Mr. Melony, the rules were suspended, bill read a third time and passed.

Assembly bill No. 207 was read first and second time; and, on motion of Mr. Walkup, referred to the Committee on Corporations.

Assembly bill No. 254 was read first and second time; and, on motion of Mr. Shaw, referred to the Judiciary Committee.

Assembly bill No. 142 was read first and second time; and, on motion, referred to the Yuba Delegation.

Senate bill No. 95 was read, and Assembly amendments concurred in.

Mr. Coffroth, Chairman of the Committee on Public Lands, made the following report:

*Mr. President :*

The Committee on Public Lands, to whom was referred Senate concurrent resolution in relation to the School Lands, have had the same under consideration, and recommend its passage.

COFFROTH, Chairman.



Mr. Bell, in accordance with previous notice given, introduced a bill entitled an Act additional to an Act to regulate proceedings in the Courts of Justice of this State, passed April 29th, 1851.

Read first and second time, and referred to the Judiciary Committee.

Mr. Shaw, from the Committee to whom was referred Senate bill No. 153, entitled an Act to regulate the Fire Department of the City and County of San Francisco, asked until to-morrow to make a report; which was granted.

On motion of Mr. Coffroth, the bill was made the special order for to-morrow at 12 o'clock M.

On motion of Mr. Johnson of El Dorado, the Senate Joint Resolution in relation to "Goddard's Map" was taken from the table and placed on the general file.

On motion of Mr. Waite, the Assembly concurrent resolution in relation to the Pacific Railroad was taken from the table and placed on the calendar.

Mr. McGee introduced a bill entitled an Act supplementary to an Act entitled "An Act to apportion the Senatorial and Assembly Districts of this State, passed May 18th, 1853."

Read first and second time, and referred to the Judiciary Committee.

On motion of Mr. Shaw the vote referring Assembly bill No. 254, to the Judiciary Committee, was reconsidered, and the bill placed on calendar.

On motion of Mr. Woodworth, Senate bill No. 116, entitled "an Act to authorize the executrix and executors of the last will and testament of Wm. D. M. Howard, deceased, to sell real estate of the testator at private sale, was taken from the table, read third time and passed.

#### GENERAL FILE.

Senate bill No. 100, entitled "an Act to provide for the construction of canals, and for draining and reclaiming certain swamp and overflowed lands in Tulare Valley," was read third time.

The question being on the final passage of the bill, Mr. Walkup, by unanimous consent, offered the following amendments: Insert after the word "hands," in section 3d, second line, the following: "and for the opening and completion of said canals." Also, after the word "Act," in second line of section 4, the following; "or any part thereof," which were adopted.

On the question of the final passage of the bill, the ayes and noes were demanded by Messrs. Carpenter, Chase and Melony, and taken with the following result:

#### AYES.

Messrs. Bell, Bynum, Coffroth, Cosby, Crandall, De La Guerra, Dosh, Ferguson of Sacramento, Fiske, Johnson of Sacramento, Johnson of El Dorado, McGee, Melony, Merritt, Norman, Sullivan, Taliaferro, Walkup, Wilson, Woodworth—20.

## NOES.

Messrs. Ashley, Burnett, Carpenter, Chase, Ferguson of Sierra, Mandeville, McCallum, Shaw, Soule and Waite—10.

So the bill as amended was passed.

Senate bill No. 151, entitled an Act to amend an act entitled "an Act defining the rights of husband and wife," passed April 17, 1850, was read third time and passed.

Assembly bill No. 55, entitled an Act concerning the Eighth, Ninth and Fifteenth Judicial Districts of this State and the Judges thereof, was considered and amendments of Committee reported yesterday adopted.

Mr. Mandeville in the Chair.

Mr. Cosby moved to recommit the bill to the Committee with special instructions, upon which the ayes and noes were demanded by Messrs. Cosby, Wilson and Carpenter, and taken with the following result:

## AYES.

Messrs. Bell, Carpenter, Cosby, Johnson of El Dorado, Merritt and Wilson—6.

## NOES.

Messrs. Burnett, Bynum, Chase, Crandall, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Goodwin, Mandeville, McCallum, McGee, Mesick, Norman, Shaw, Soule, Sullivan, Taliaferro, Waite, Westmoreland and Woodworth—21.

So the motion was lost.

The bill was then read third time, and passed as amended.

The hour having arrived for considering the special orders of the day—they being Senate bills No. 53 and 125, relating to legalizing the present indebtedness of the State of California, and to provide for its payment, was taken up, and, on motion of Mr. Coffroth, were made the special order for Tuesday, March 24th, at 12 M.

## GENERAL FILE RENEWED.

Senate bill No. 165, substitute for Assembly bill No. 112, entitled an Act to provide for the payment of the debts of the Counties of San Luis Obispo and Santa Barbara, was considered in Committee of the Whole, reported back to Senate without amendments.

In Senate, on motion of Mr. Coffroth, the rules were suspended, the bill considered engrossed, read third time, and passed.

Senate Bill No. 161, entitled "An Act in relation to a Stage or Wagon Road, from Anito, on Bold Creek, Mariposa county, to Yosemite Valley, in said county, was considered in Committee of the Whole, reported back to the Senate without amendments.

In Senate, on motion of Mr. Norman, the bill was indefinitely postponed.

Mr. Ferguson of Sacramento, Chairman of the Committee on Public Printing, by leave, made the following report:

*Mr. President :*

A majority of the Committee on Public Printing, to whom were referred Senate Bill No. 17, and substitute, together with Assembly Bill No. 121, "Amending and supplementary to the Act creating the Office of State Printer," have instructed me to report back the substitute herewith submitted, and a majority of the Committee recommend the passage of the same.

I cannot concur, however, in such recommendation; believing that the rates provided for in such substitute are too low to enable the State to procure any responsible and competent person to undertake the work.

I would, therefore, recommend the passage of the substitute originally submitted for Senate Bill No. 17, in accordance with a former recommendation of two members of the committee; believing the rates therein provided are not only moderate, but necessary to procure the faithful and proper completion of the public Printing.

W. I. FERGUSON,  
Chairman.  
C. WESTMORELAND.

Mr. Ferguson moved to make the various bills and substitutes relative to public printing, the special order of the day for Wednesday the 25th inst. at 12 o'clock.

Mr. Walkup moved to amend by inserting "12 o'clock to-morrow;" upon which the ayes and noes were demanded by Messrs. Norman, Walkup and Waite, and taken with the following result:

AYES.

Messrs. Ashley, Burnett, Ferguson of Sierra, Fiske, Johnson of El Dorado, Mandeville, McCallum, McGee, Merritt, Norman, Shaw, Soule, Waite, Walkup and Wilson—15.

NOES.

Messrs. Bell, Bynum, Coffroth, Crandall, De La Guerra, Dosh, Ferguson of Sacramento, Goodwin, Johnson of Sacramento, Mesick, Taliaferro, Westmoreland and Woodworth—13.

So the bills upon public printing were made the special orders of the day for to-morrow, Wednesday, the 18th inst., at 12 o'clock M.

On motion of Mr. Shaw, the rules were suspended and the following Assembly messages were taken up and considered:

*Mr. President :*

I am directed to inform the Senate that the Assembly have this day passed Senate Bill No. 157, an Act to enforce more effectually the attendance of witnesses on the summons of either House of the Legislature of this State, and to compel them to discover testimony, with amendments as therein shown, and request the concurrence of the Senate.

J. W. SCOBEEY,  
Assistant Clerk.

Senate Bill No. 157, was considered and Assembly amendments concurred in.

Also, the following:

*Mr. President :*

I am directed to inform the Senate that the Assembly on to-day adopted the following resolution:

*Resolved*, That the clerk of the Assembly be instructed to inform the Senate that Senate Bill No. 152, for an Act to grant H. M. Stone the right of way across the Sacramento river, has passed from the possession of the Assembly, and it is therefore impossible to comply with the request of the Senate respecting the return of said bill.

W. CAMPBELL,  
Clerk of Assembly.

Also, the following :

*Mr. President:*

I am directed to inform the Senate, that the Assembly on yesterday adopted a concurrent resolution, relative to adjournment of the Legislature, *sine die*.

Also, adopted a concurrent resolution relating to commencing suit against Henry Bates, and respectfully ask the concurrence of the Senate.

W. CAMPBELL,  
Clerk Assembly.

March 17th, 1857.

Assembly concurrent resolution providing for the adjournment of the Legislature, *sine die*, on the 6th of April, was on motion of Mr. Walkup, laid on the table.

Assembly concurrent resolution directing the Attorney General to commence suits forthwith against Henry Bates, late Treasurer of State on his official bond, and also upon the bond taken by him for E. A. Rowe, was considered.

Mr. Dosh moved to strike out all relative to the bond of E. A. Rowe ; after debate the motion was withdrawn.

Mr. Waite moved to amend by adding the following, " whenever it shall come to the knowledge of said Attorney General that the conditions of the bond given by the said E. A. Rowe and his sureties have not been complied with," which was lost.



Mr. Dosh then renewed his motion which was put and lost.

Mr. Waite moved to strike out the word "forthwith;" which was lost.

Mr. Woodworth moved to amend as follows:

"If, in the opinion of the Attorney General, there is present cause of action against the said bond."

Mr. Chase offered the following as a substitute for Mr. Woodworth's amendment:

And, also, any such suit as may be most effective for the purpose of recovering the sum of \$124,000, agreed to be paid over to E. A. Rowe and others, or abstracted from the Treasury by the said Rowe and others.

Adopted.

On motion of Mr. McCallum, the concurrent resolution, as amended, was concurred in.

Senate bill No. 113, An Act amendatory of and supplementary to an Act to establish, support, and regulate Common Schools, and to repeal former Acts concerning the same, approved May 3, 1855, was considered in Committee of the Whole, amended, and reported back to the Senate.

In Senate, amendments of Committee concurred in.

Mr. Ashley moved that the bill be considered engrossed and read a third time; which was lost.

The question being, "Shall the bill be ordered engrossed and read a third time?" was put and carried.

Senate concurrent resolution, declaring the Map of the State of California, drawn by G. H. Goddard, the official Map of the State, was read.

Mr. Dosh moved to lay the resolution on the table; which was lost.

Mr. Goodwin moved to indefinitely postpone.

Mr. Coffroth moved to make the resolution the special order of the day for Friday next, at 12 o'clock, M.

Mr. Merritt moved the previous question; which was sustained.

Question, "Shall the main question be now put?" was put and carried.

The main question, being the motion of Mr. Coffroth to make the resolution the special order, was put and lost.

The question recurring on the motion of Mr. Goodwin, to indefinitely postpone, was put and carried.

Assembly Joint Resolution relative to a Pacific Railroad, was read.

Mr. Coffroth moved its indefinite postponement; pending the action on which,

On motion of Mr. Bell, the Senate adjourned.

Approved March 18th, 1857.

S. H. DOSH,  
President Senate *pro tem.*

Attest:

GEO. S. EVANS, Secretary Senate.

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## IN SENATE.

WEDNESDAY, March 18th, 1857.

Senate met pursuant to adjournment.

The President *pro tem.* in the Chair.

Roll called.

Journals of yesterday read and approved.

Mr. Ashley, Chairman of the Judiciary Committee, made the following report:

*Mr. President :*

The Judiciary Committee, to whom was referred Senate bill No. 166, an Act supplementary to an Act entitled "an Act to apportion the Senatorial and Assembly Districts of this State," passed May 18th, 1853, have had the same under consideration, and report the same back to the Senate, without recommending its passage.

Also, Assembly bill No. 212, an Act supplementary to an act entitled "an Act to provide for the appointment and prescribe the duties of Guardians," passed April 19th, 1850, and recommend its passage.

Also, Assembly bill No. 98, an Act to fix the compensation and pay of members of the Senate and Assembly of the State of California," and report the same back for the consideration of the Senate.

Also, Senate bill No. 162, an Act supplementary to an act entitled "an Act to exempt the homestead and other property from forced sale in certain cases," passed April 21st, 1851, and recommend its indefinite postponement.

D. R. ASHLEY,  
Chairman.

Report accepted and bills placed on calendar.

Mr. Coffroth, Chairman of Special Committee, made the following report:

*Mr. President:*

The Special Committee, consisting of the Tuolumne Delegation, have had under consideration an Act empowering the Supervisors of Tuolumne County to levy a tax for Jail purposes, and report the same back with an amendment and recommend its adoption:

Strike out on line 8 "one fourth" and insert "one-eighth."

J. W. COFFROTH,  
J. W. MANDEVILLE.

Report accepted and bill placed on the calendar.

Mr. Sullivan, Chairman *pro tem.* of the Committee on Engrossed Bills, made the following report:

*Mr. President:*

The Committee on Engrossed Bills have examined Senate bill No. 11, entitled an Act to legalize certain Records in the County of Solano.

Also, Senate bill No. 105, entitled an Act concerning Notaries Public.

Also, Senate bill No. 143, entitled an Act to amend an act concerning Sheriffs, passed April 29th, 1851, and find the same correctly engrossed.

E. L. SULLIVAN,  
Chairman *pro tem.*

March 18th, 1857.

Bills placed on calendar.

Mr. Carpenter, from the Special Committee of the El Dorado Delegation, made the following report:

*Mr. President:*

The undersigned, a minority of the El Dorado Delegation, to whom was referred Senate bill No. 155, asks leave to report the same back and recommend its passage.

G. I. CARPENTER.

Report accepted and bill placed on calendar.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly on yesterday passed Assembly Bill No. 166, an Act to provide for the support of the government of this State from a tax to be levied and collected from foreign and inland bills and other matters.

W. CAMPBELL,  
Clerk of Assembly.

March 18th, 1857.

Assembly Bill No. 166, was read first and second time and, on motion, referred to Committee on Finance.

Mr. Shaw, from the San Francisco Delegation, made the following report:

*Mr. President :*

The San Francisco Delegation, to whom was referred the Act to regulate the Fire Department of the city and county of San Francisco, have carefully considered the same, and unanimously recommend its passage with the following amendments, the most material of which, (striking out provisions as to salaries,) have been agreed to, for the reason that provision therefor can be more properly and appropriately made in the "act to amend the consolidation act" pending before the Senate.

FRANK. A. WOODWORTH,  
SAML. SOULE,  
E. L. SULLIVAN,  
WM. J. SHAW.

Amend as follows:

Section two, line 3, after "1857" insert the following: "And thereafter, according to their terms of office.

Section four, line 24, after "Department" add "and any company, officer or member of the Department."

Section eight, line 4, before the word "registered" insert "active."

Section nine, after the word "Department," in line 3, add "and to locate all cisterns and Fire Company houses hereafter to be built.

Strike out Section fourteen.

Strike out, in line 2, the words "may organize themselves."

Strike out in line 4, the word "they."

Strike out in line 6, the word "shall."

Insert after the word "Department," in line 1, the following: "May be organized and admitted as prescribed in Section six of this Act."

Strike out the whole of Section seventeen.

Report accepted with bill, placed with special orders for 12 M.

Mr. Woodworth, Chairman of Special Committee, San Francisco Delegation, made the following report:

*Mr. President:*

The San Francisco Delegation, to whom was referred Senate Bill No. 8, an Act to legalize certain conveyances, respectfully report that they have duly considered the same, and recommend its passage with the accompanying amendments.

FRANK. A. WOODWORTH,  
E. L. SULLIVAN,  
SAML. SOULE,  
WM. J. SHAW.

Add at the close of the bill, "but nothing contained in this Act shall be held or construed to affect or impair any adverse title or claim acquired prior to the passage of this Act."



Report accepted and bill placed on the calendar.

Mr. Goodwin gave notice that he will on to-morrow or some subsequent day, introduce a bill entitled "An Act to suppress gaming."

Also, a bill to amend an Act entitled "act Act to create a Board of Supervisors in the counties of this State, and to define their duties and powers," approved March 20th, 1855.

Mr. McCallum moved to take from the table the Assembly concurrent resolution to adjourn, *sine die*, on the 6th of April, which was put and lost.

#### GENERAL FILE.

Senate bill No. 11, entitled "an Act to legalize certain records in Solano county," was read a third time and passed.

Senate bill No. 105, entitled "an Act concerning Notaries Public."

Question being on the final passage of the bill, Mr. Fiske moved to place the bill at the foot of the calendar, which was put and lost.

Mr. Norman moved to indefinitely postpone the bill.

Mr. Ashley moved to make the bill the special order of the day for to-morrow at 11 o'clock, upon which the ayes and noes were demanded by Messrs. Cosby, Mandeville and McCallum, and taken with the following result :

#### AYES.

Messrs. Ashley, Bell, Burnett, Bynum, Coffroth, Cosby, De La Guerra, Ferguson of Sacramento, Fiske, Goodwin, Johnson of Sacramento, Johnson of El Dorado, McGee, Mesick, Taliaferro, Waite, Westmoreland and Woodworth—18.

#### NOES.

Messrs. Carpenter, Chase, Crandall, Dosh, Ferguson of Sierra, Mandeville, McCallum, Norman, Shaw, Soule, Walkup and Wilson—12.

So the bill was made the special order for to-morrow, at 11 o'clock A. M.

On motion, of Mr. Shaw the Journals of yesterday were amended by striking out the affidavits and vouchers accompanying report of the Committee on Claims.

On motion of Mr. Shaw, the vouchers, &c., were ordered to be filed.

Mr. Soule, from the San Francisco delegation, by leave made the following report :

*Mr. President :*

The undersigned, members of the San Francisco delegation, to whom was referred Senate Bill No. 66, "An Act entitled an Act supplemental to an Act to provide for Funding the legal and equitable Debt of the City of San Francisco, and for the final redemption of the same," approved May 7, 1855, report:

That they have had the same under consideration a long time, and by reason of a diversity of opinion among the delegates from said city and county, the undersigned have concluded to report the same back for the consideration of the Senate. We recommend that the names of Harry S. Thornton and Ira P. Rankin be added to those of Messrs. Poulterer, Whelan, and Grant, to act as a Board of Examiners.

SAMUEL SOULE,  
F. A. WOODWORTH,  
E. L. SULLIVAN.

March 18, 1857.

Report accepted, and bill placed on calendar.

The hour having arrived for taking up the special order, it being Assembly Bill No. 187, entitled "An Act to provide for issuing Licenses to Passenger Brokers," it was taken up and considered in Committee of the Whole, and reported back to the Senate without amendments.

In Senate, Mr. Ashley offered the following amendment:

Insert, after the word "ocean," in the third line, the words "in whole or in part;" and insert after the word "State," in fifth line, the words "by land or water, or both."

Adopted.

Mr. Woodworth moved to amend by adding as follows:

If the amount of the gross proceeds of his business for the month so licensed should be less than his sworn estimate, it shall be the duty of the County Treasurer to refund to him one per cent. upon such amount.

Lost.

Mr. Ashley moved that the word "will," in third section, be stricken out, and the word "shall" inserted; which was adopted.

Mr. Ashley then moved to insert after the word "presenting" the words "or making;" which was adopted.

The bill was then read a third time and passed.

#### SPECIAL ORDER.

On motion of Mr. Shaw, the special order of the day—an Act to regulate the Fire Department of the City and County of San Francisco—together with

report of Committee this morning made, was taken up, considered in Committee of the Whole, amended, and reported back to the Senate.

In Senate. On motion of Mr Shaw, the amendments of the Committee of the Whole were concurred in; rules suspended; bill considered engrossed, and read a third time.

The question being upon the final passage of the bill, the ayes and noes were demanded by Messrs. Coffroth, Taliaferro and Westmoreland, and taken with the following result:

AYES.

Messrs. Ashley, Bell, Burnett, Bynum, Carpenter, Chase, Coffroth, Cosby, De La Guerra, Dosh, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McGee, Mesick, Norman, Shaw, Soule, Sullivan, Taliaferro, Waite, Walkup, Westmoreland, Wilson and Woodworth—28.

So the bill as amended was passed.

On motion of Mr. Norman, leave of absence was granted to Mr. Melony until Monday next.

Mr. Burnett, by leave, gave notice that, at an early day, he will introduce an Act relative to County Recorders,

SPECIAL ORDER.

The further special orders—the bills relative to public printing—were then taken up.

Mr. Walkup moved to consider the Senate substitute.

Mr. Mandeville moved to strike out from the Assembly bill all after the enacting clause and insert the substitute reported by the Committee.

On motion, the Committee substitute considered in Committee of the Whole, after some time spent in consideration of the bill and amendments, the Committee rose and reported progress.

In Senate. Mr. Mandeville moved that the committee have leave to further consider the bill on Friday next, the 20th inst., at 11 o'clock, upon which the ayes and noes were demanded by Messrs. McCallum, Westmoreland and Burnett, and taken with the following result :

## AYES.

Messrs Bynum, Chase, Coffroth, Cosby, Crandall, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McGee, Merritt, Mesick, Norman, Taliaferro and Westmoreland—18.

## NOES.

Messrs. Ashley, Burnett, Carpenter, Goodwin, McCallum, Shaw, Soule, Sullivan, Walkup and Woodworth—10.

Mr. Bell declined voting,

So the bill was ordered to be further considered in Committee of the Whole, on Friday next.

Mr. Ashley moved to print the usual number of the substitute, which was agreed to. On motion, the rules were suspended and the following Assembly message was taken up.

*Mr. President :*

I am directed to inform the Senate that the Assembly on to-day passed a concurrent resolution relative to the translation of the laws of 1856, into the Spanish language.

The Assembly has appointed Messrs. Harrison, Davidson and O'Neill, a committee on the part of the Assembly, to confer with a committee to be appointed on behalf of the Senate, and respectfully request the concurrence of the Senate.

Respectfully,

W. CAMPBELL,  
Clerk Assembly.

On motion, the resolution was considered and concurred in, and Messrs. Mandeville, Crandall and Coffroth were appointed on the part of the Senate.

## GENERAL FILE.

Senate bill No. 143, entitled "an Act to amend an Act entitled an Act concerning Sheriffs," passed April 29th, 1851, was read third time and passed.

Assembly Joint Resolution No. 4, "relative to a Pacific Railroad," was read.

Mr. Walkup moved to lay the resolution on the table; which was lost.

Mr. Waite offered the following amendment:

*Resolved*, That in the opinion of this Legislature, Congress has the constitutional power to appropriate either money or lands, or both, to carry on a system of internal improvements, especially to construct a Railroad connecting the Atlantic and Pacific Oceans.

Mr. Shaw moved to make the whole subject matter the special order for the first Monday of May.



Upon which the ayes and noes were demanded by Messrs. Ashley, Shaw and Mesick, and taken with the following result:

AYES.

Messrs. Coffroth, Mandeville, Merritt, Shaw, Soule and Walkup—6.

NOES.

Messrs. Ashley, Bell, Carpenter, Chase, Crandall, Dosh, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Johnson of El Dorado, McCallum, McGee, Mesick, Norman, Waite, Westmoreland and Woodworth—18.

So the motion was lost.

Mr. Mandeville rose to a question of order: That the Senate when considering the resolution on a former day adjourned pending the action upon an amendment offered by himself, that consequently his amendment had precedence.

The Chair ruled the point of order well taken; so the amendment formerly offered by Mr. Mandeville was considered, to wit:

*Provided*, That nothing contained in this resolution shall be so construed as to mean that the Congress of the United States possess the power to carry on a general system of internal improvements within any State.

Upon the adoption of which, the ayes and noes were demanded by Messrs. Mandeville, Westmoreland and Cosby, and taken with the following result:

AYES.

Messrs. Burnett, Carpenter, Chase, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McGee, Merritt, Norman, Shaw, Walkup and Westmoreland—12.

NOES.

Messrs. Ashley, Bell, Coffroth, Cosby, Dosh, Ferguson of Sierra, Fiske, Goodwin, McCallum, Mesick, Soule, Sullivan, Taliaferro, Waite and Woodworth—15.

So the amendment was lost.

Mr. McCallum moved a call of the Senate; which was lost.

Mr. McCallum moved to adjourn. Lost.

The question recurring on Mr. Waite's amendment,

Mr. Chase moved to strike out the words "to carry on a system of internal improvement especially."

Mr. Shaw moved the previous question; which was sustained.

The question being: Shall the main question be now put? was put and carried.

The main question being Mr. Chase's motion to strike out, the ayes and noes were demanded by Messrs. Cosby, Chase and Walkup, and taken with the following result:

**AYES.**

Messrs. Burnett, Carpenter, Chase, Dosh, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McGee, Merritt, Norman, Shaw, Soule, Taliaferro, Walkup and Westmoreland—16.

**NOES.**

Messrs. Ashley, Bell, Coffroth, Cosby, De La Guerra, Ferguson of Sierra, Fiske, McCallum, Mesick, Sullivan, Waite and Woodworth—12.

So the motion to strike out was carried.

The question recurring on the amendment of Mr. Waite as amended by the motion of Mr. Chase, the ayes and noes were demanded by Messrs. Cosby, Goodwin and Waite, and taken with the following result:

**AYES.**

Messrs. Ashley, Bell, Burnett, Carpenter, Chase, Coffroth, Cosby, De La Guerra, Dosh, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Merritt, Mesick, Shaw, Soule, Sullivan, Taliaferro, Waite, Walkup, Westmoreland and Woodworth—24.

**NOES.**

Messrs. Mandeville, McCallum and McGee—3.

So the amendment of Mr. Waite as amended, was adopted.

Mr. Coffroth moved the indefinitely postpone the whole subject matter.

Mr. Taliaferro gave notice that on to-morrow he would move to reconsider the vote by which the proviso offered by Mr. Mandeville was rejected.

Mr. Mandeville moved to adjourn, which was lost.

Mr. Ashley moved the previous question, which was sustained.

Question, "Shall the main question be now put?" was put and carried.

The main question being on the motion of Mr. Coffroth to indefinitely postpone, was put and lost.

The question being upon the final passage of the Joint Resolution as amended, the ayes and noes were demanded by Messrs. Coffroth, Cosby and Westmoreland, and taken with the following result :

AYES.

Messrs. Ashley, Bell, Burnett, Carpenter, Chase, Coffroth, Cosby, De La Guerra, Dosh, Ferguson of Sierra, Goodwin, Johnson of Sacramento, Johnson of El Dorado, McCallum, McGee, Merritt, Mesick, Shaw, Soule, Sullivan, Waite, Walkup, Westmoreland and Woodworth—24.

NOES.

Messrs. Mandeville and Taliaferro—2.

Mr. Norman declined voting.

So the Joint Resolution as amended, was passed.

Mr. Walkup gave notice that he would on to-morrow, have a reconsideration of the vote by which the resolution was passed.

Mr. Johnson of Sacramento, gave notice that at an early day he will introduce a bill to allow the Mayor and Common Council of the city of Sacramento to construct a bridge across the Sacramento river.

On motion of Mr. Mandeville, the Senate adjourned.

Approved March 19th, 1857.

SAMUEL H. DOSH,

President Senate *pro tem.*

Attest:

GEO. S. EVANS, Secretary Senate.

## IN SENATE.

THURSDAY, March 19, 1857.

Senate met pursuant to adjournment.  
 President *pro tem.*, in the Chair.  
 Roll called.  
 Journals of yesterday read and approved.

Mr. Johnson of Sacramento, presented a petition from the Mayor and Common Council of the city of Sacramento, praying the Legislature to pass a bill granting to the city the right to construct a bridge across the Sacramento river, which was read, and on motion, referred to the Sacramento Delegation.

Mr. Cosby made the following report:

*Mr. President :*

Your Committee to whom was referred Assembly bill No 181, entitled an Act to provide for the funding of the indebtedness of the County of Klamath, have had the same under consideration, beg leave to report the same back without amendment, and recommend its passage.

JOHN D. COSBY,  
 Of Committee.

Report accepted and bill placed on calendar.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly on to-day passed Senate bill No. 153, an Act to regulate the Fire Department of the City and County of San Francisco.

W. CAMPBELL,  
 Clerk Assembly.

Mr. Johnson of Sacramento, in accordance with previous notice given, introduced a bill entitled an Act to allow the Mayor and Common Council of Sacramento to bridge the Sacramento river, which was read first and second time, and on motion, referred to the Judiciary Committee.

Mr. Goodwin, in accordance with previous notice given, introduced a bill entitled an Act to amend an act entitled "an Act to create a Board of Supervisors in the Counties of this State and to define their duties and powers," which was read first and second time, and placed on the calendar.



Mr. Burnett, in accordance with previous notice given, introduced a bill entitled an Act to amend "an Act concerning County Recorders," passed March 26, 1851, which was read first and second time, and referred to the Judiciary Committee.

Mr. Mandeville, Chairman of the Special Committee to whom was referred Senate bill No. 58, and Assembly bill No. 132, an Act concerning chattel mortgages, reported a substitute therefor, and recommend its adoption.

Substitute read first and second time, and placed on calendar.

Mr. Walkup, pursuant to notice given on yesterday, moved to reconsider the vote by which the joint resolution in relation to the Pacific Railroad passed the Senate, upon which the ayes and noes were demanded by Messrs. Walkup, Taliaferro and Merritt, and taken with the following result:

#### AYES.

Messrs. Bell, Carpenter, Chase, Cosby, Dosh, Ferguson of Sacramento, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, McGee, Merritt, Norman, Shaw, Taliaferro, Walkup, Westmoreland and Wilson—18.

#### NOES.

Messrs. Ashley, Burnett, Bynum, Ferguson of Sierra, Fiske, Goodwin and Woodworth—8.

So the vote was reconsidered.

Mr. Taliaferro, in accordance with notice given on yesterday, moved to reconsider the vote by which Mr. Mandeville's "Proviso" to the Joint Resolution was rejected.

Question put, and vote reconsidered.

On motion of Mr. Walkup, the Proviso was then adopted.

Mr. Fiske moved to indefinitely postpone the whole subject matter.

Mr. Burnett called for the reading of the resolution. Objections being made, the question was put and carried; so the resolutions were read.

The question recurring on the motion to indefinitely postpone, was put and lost.

On motion, the joint resolution as amended was passed.

#### GENERAL FILE.

Assembly bill No. 254, entitled an Act concerning delinquent taxes in certain Counties in this State, being substitute for Senate bill No. 73, was read a third time, and on the question of its final passage was rejected.

On motion, a Committee of Free Conference was appointed upon the original Senate bill and Assembly substitute, composed of Messrs. Walkup, Johnson of Sacramento and McCallum.

The following message was received from his Excellency the Governor:

EXECUTIVE DEPARTMENT,  
Sacramento, March 18, 1857. }

*To the Senate of California:*

I have this day approved an Act supplementary to and to amend an Act concerning the debt and current expenses of the County of Monterey, and to provide for the funding and the payment of the same, approved April 19, 1856.

Also, an Act to authorize the Board of Supervisors of Calaveras County to levy a special tax to redeem County warrants.

Also, an Act supplementary to an Act for securing liens to mechanics and others, passed April 17th, 1856.

Also, an Act concerning the moneys in the State Treasury, and to appropriate from the same for the civil expenses of the State from the first day of February, A. D. 1857, inclusive.

J. NEELY JOHNSON.

On motion of Mr. Walkup, the Secretary was directed to return Assembly message for correction.

Senate bill No. 141, entitled "an Act supplementary to an Act entitled an Act to provide for the formation of corporations for certain purposes," passed April 14, 1853, was on motion, recommitted to the Committee on Corporations.

Senate bill No. 166, entitled "an Act supplementary to an Act to apportion the Senatorial and Assembly Districts of this State," passed May 18th, 1853, was on motion, considered engrossed and read a third time.

Mr. Walkup moved to indefinitely postpone the bill, upon which the ayes and noes were demanded by Messrs. Walkup, Mandeville and Carpenter, and taken with the following result:

AYES.

Messrs. Carpenter, Chase, Mandeville, Merritt, Norman, Shaw, Sullivan, Walkup and Wilson—9.

NOES.

Messrs. Ashley, Bell, Burnett, Bynum, Cosby, Crandall, Dosh, Ferguson of Sacramento, Goodwin, Johnson of El Dorado, McGee, Mesick, Soule, Taliaferro, Waite, Westmoreland and Woodworth—17.

Mr. McCallum declined voting.

So the motion to indefinitely postpone was lost.

Mr. McCallum moved to reconsider the vote by which the bill was considered

engrossed, and ordered read a third time, upon which the ayes and noes were demanded by Messrs. McCallum, Walkup and Carpenter, and taken with the following result :

AYES.

Messrs. Carpenter, Chase, Crandall, Mandeville, McCallum, Merritt, Norman, Shaw, Sullivan, Walkup, Wilson and Woodworth—12.

NOES.

Messrs. Ashley, Bell, Burnett, Bynum, Coffroth, Cosby, Dosh, Goodwin, Johnson of El Dorado, McGee, Mesick, Soule, Taliaferro, Waite, Westmoreland—16.

Mr. Ferguson of Sierra declined voting.

So the motion to reconsider was lost.

Mr. Walkup moved to commit the bill to the Committee on Counties and County Boundaries. Lost.

On motion of Mr. Walkup the special order of the day, which was Senate bill No. 1, entitled "an Act recommending to the electors to vote for or against a convention to revise and change the Constitution of this State, was taken up.

Mr. Walkup moved a call of the Senate, upon which the ayes and noes were demanded by Messrs. McCallum, Norman and Carpenter, and taken with the following result :

AYES.

Messrs. Carpenter, Crandall, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, Merritt, Walkup and Wilson—9.

NOES.

Messrs. Ashley, Bell, Burnett, Bynum, Chase, Coffroth, Cosby, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Goodwin, McGee, Mesick, Norman, Shaw, Soule, Sullivan, Taliaferro, Waite, Westmoreland and Woodworth—21.

So the motion for a call was not sustained.

On motion of Mr. Coffroth, the special order of the day was postponed until 1 o'clock.

Senate bill No. 166 again taken up.

Mr. Walkup moved to lay the bill on the table.

Mr. McGee moved the previous question, which was sustained.

The question being, " Shall the main question be now put ?" the ayes and noes were demanded by Messrs. Walkup, Maudeville and Carpenter, and taken with the following result:

## AYES.

Messrs. Ashley, Bell, Burnett, Bynum, Coffroth, Cosby, Dosh, Ferguson of Sacramento, Goodwin, McGee, Mesick, Soule, Taliaferro, Waite, Westmoreland and Woodworth—16.

## NOES.

Messrs. Carpenter, Chase, Crandall, Mandeville, McCallum, Merritt, Norman, Sullivan, Walkup and Wilson—10.

Messrs. Ferguson of Sierra, Johnson of El Dorado, and Shaw, declined voting.

So the motion was carried.

The main question being to lay the bill on the table, the ayes and noes were demanded by Messrs. Mandeville, McCallum and Walkup, and taken with the following result:

## AYES.

Messrs. Carpenter, Crandall, Mandeville, McCallum, Merritt, Norman, Shaw, Sullivan, Walkup and Wilson—10.

## NOES.

Messrs. Ashley, Bell, Burnett, Bynum, Coffroth, Cosby, Dosh, Ferguson of Sacramento, Goodwin, Johnson of Sacramento, Johnson of El Dorado, McGee, Mesick, Soule, Taliaferro, Waite, Westmoreland and Woodworth—18.

Mr. Ferguson of Sierra declined voting.

So the motion to lay on the table was lost.

The question being on the final passage of the bill, the ayes and noes were demanded by Messrs. Walkup, Mandeville and McGee, and taken with the following result:

## AYES.

Messrs. Ashley, Bell, Burnett, Bynum, Coffroth, Cosby, Dosh, Ferguson of Sacramento, Goodwin, Johnson of El Dorado, McGee, Mesick, Soule, Taliaferro, Waite, Walkup and Westmoreland—17.

## NOES.

Messrs. Carpenter, Chase, Crandall, Johnson of Sacramento, Mandeville, McCallum, Merritt, Norman, Shaw, Sullivan, Wilson and Woodworth—12.

Mr. Ferguson of Sierra declined voting.

So the bill was passed.

Mr. Walkup gave notice that on to-morrow he would move a reconsideration of the vote by which the bill was passed.



Mr. Ashley moved to take up the special order for 11 o'clock, an Act concerning Notaries Public.

Mr. Walkup rose to a point of order, which was, "that the bill having been made the special order for 11 o'clock, and that hour having passed, the bill could not be taken up without a suspension of the rules."

The Chair ruled that the point of order was not well taken.

Mr. Walkup appealed from the decision of the Chair.

Pending the discussion upon the appeal, the hour of 1 o'clock having arrived, on motion of Mr. Mandeville, the special order for one o'clock was taken up, being Senate bill No. 1, entitled an Act recommending to the electors to vote for or against a Convention to revise and change the Constitution of the State.

Mr. Walkup moved to consider the bill in Committee of the Whole.

Mr. Coffroth moved to indefinitely postpone.

Mr. Westmoreland moved the previous question.

Lost.

The question recurring on the motion to indefinitely postpone, the ayes and noes were demanded by Messrs. Coffroth, Westmoreland and Carpenter, and taken with the following result:

#### AYES.

Messrs. Bell, Burnett, Chase, Coffroth, Ferguson of Sacramento, Goodwin, Johnson of El Dorado, Mesick, Taliaferro and Westmoreland—10.

#### NOES.

Messrs. Ashley, Bynum, Carpenter, Cosby, Crandall, Dosh, Ferguson of Sierra, Fiske, Johnson of Sacramento, Mandeville, McCallum, McGee, Merritt, Norman, Shaw, Soule, Waite, Walkup, Wilson and Woodworth—20.

So the motion was lost.

Mr. Shaw moved that the rules be suspended; that the bill be considered engrossed and read third time; upon which he moved the previous question.

Mr. Coffroth moved a call of the Senate; upon which the ayes and noes were demanded by Messrs. Coffroth, Taliaferro and Burnett, and taken with the following result:

#### AYES.

Messrs. Bell, Burnett, Bynum, Chase, Coffroth, Cosby, Crandall, Dosh, Ferguson of Sacramento, Goodwin, Johnson of El Dorado, McGee, Mesick, Norman, Taliaferro and Westmoreland—16.

## NOES.

Messrs. Ashley, Carpenter, Ferguson of Sierra, Fiske, Johnson of Sacramento, Mandeville, McCallum, Merritt, Shaw, Soule, Waite, Walkup, Wilson and Woodworth—14.

Mr. De La Guerra, absent.

So the call was sustained.

Mr. Mandeville moved that further proceeding under the call be suspended, which was carried.

Mr. Shaw renewed his call for the previous question, which was sustained.

Question being, "Shall the main question be now put?" was put and carried.

The main question being on the motion of Mr. Shaw to suspend the rules, consider the bill engrossed and read a third time, was put and carried, and the bill read a third time.

Question being on the final passage of the bill, the ayes and noes were taken with the following result:

## AYES.

Messrs. Ashley, Bynum, Carpenter, Coffroth, Cosby, Crandall, Dosh, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Mandeville, McCallum, McGee, Merritt, Norman, Shaw, Soule, Waite Walkup, Wilson, and Woodworth—22.

## NOES.

Messrs. Bell, Burnett, Chase, Ferguson of Sacramento, Johnson of El Dorado, Mesick, Sullivan, Taliaferro and Westmoreland—9.

Absent, Messrs. De La Guerra and Melony.

So the bill was passed by a constitutional majority.

Mr. Coffroth gave notice that on to-morrow he would move a reconsideration of the vote on the final passage of the bill.

Mr. Shaw moved to reconsider the vote on the final passage of the bill, upon which Mr. Coffroth withdrew his notice of reconsideration, and by leave, changed his vote on the final passage of the bill to the negative.

Mr. Mandeville moved the indefinite postponement of Mr. Shaw's motion to reconsider, which was put and carried.

On motion of Mr. Burnett, the rules were suspended and Assembly messages considered.

*Mr. President:*

I am directed to inform the Senate that the Assembly on yesterday concurred in Senate amendments to Assembly concurrent resolution relative to commencing suits against Henry Bates.

Also, have adopted concurrent resolution relative to a certain enrolled bill.

Also, have adopted Assembly concurrent resolution relative to certain mail routes.

Also, have adopted concurrent resolution appointing Joint Committee to devise ways and means in the present financial crisis, and that Messrs. Burch, Brent, Hall, McKune and Shepard have been appointed on the Joint Committee on the part of the Assembly.

Also, have passed, after making amendments to the same, Senate Bill No. 148, an Act to define the powers and duties of the Board of Supervisors of the city and county of San Francisco in certain cases.

Also, have passed Assembly Bill No. 283, an Act to change and fix the county seat of the county of Yolo.

Also, have passed Assembly Bill No. 271, an Act to incorporate the city of San Jose.

Also, have passed Assembly Bill No. 274, an Act supplementary to and amendatory of an Act entitled an Act to alter and define the boundary line of Tehama county, approved February 19, 1851.

Also, have concurred in Senate amendments to Assembly Bill No. 55, an Act concerning the 8th, 9th and 15th Judicial Districts of this State, and the Judges thereof.

Also, have concurred in Senate amendments to Assembly Bill No. 187, an Act to provide for issuing licenses to passenger brokers.

W. CAMPBELL,

Clerk of Assembly.

Mr. Merritt in the chair.

Assembly concurrent resolution to devise ways and means in the present financial crisis was concurred in, and Messrs. Norman, Cosby and Carpenter appointed a committee on the part of the Senate.

Assembly concurrent resolution relative to certain Mail routes was concurred in.

Assembly concurrent resolution relative to a certain enrolled bill was concurred in.

Senate Bill No. 148 was considered, and Assembly amendments concurred in.

Assembly Bill No. 283 was read first and second times, rules suspended, bill read a third time and passed.

Assembly Bill No. 271 was read first and second times, rules suspended, bill read a third time, and passed.

Assembly Bill No. 274 was read first and second times, and referred to the Senators from Yuba, Sutter and Tehama.

The following message from the Assembly was then read.

ASSEMBLY CHAMBER, }  
Thursday, March 19, 1857. }

*Mr. President :*

I am directed to inform the Senate that the Assembly, yesterday, amended and passed Senate bill No. 54, an Act to grant the right to construct a bridge across the Sacramento River, between the City of Sacramento and the Town of Washington, to certain persons therein named, and ask the concurrence of the Senate in the amendments.

W. CAMPBELL,  
Clerk of Assembly.

Senate bill No. 54 was considered.

Mr. Johnson of Sacramento moved to make the bill the special order of the day for one week from Friday next.

After much debate, Mr. Johnson moved a call of the Senate; which was put and lost.

The question recurring on Mr. Johnson's motion to make the bill the special order for Friday, the 27th inst., the ayes and noes were demanded by Messrs. Johnson of Sacramento, Shaw and Goodwin, and taken with the following result:

AYES.

Messrs. Ashley, Carpenter, Goodwin, Johnson of Sacramento, McCallum, Mesick, Norman, Shaw, Soule, Sullivan, Waite and Woodworth—12.

NOES.

Messrs. Bell, Bynum, Coffroth, Cosby, Crandall, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Johnson of El Dorado, McGee, Merritt, Taliaferro, Westmoreland and Wilson—14.

So the motion was lost.

Mr. McCallum moved to postpone the further consideration of the bill until Wednesday next the 25th inst.

Mr. Dosh moved the previous question; which was sustained.

Question being: Shall the main question be now put? the ayes and noes were demanded by Messrs. McCallum, Carpenter and Johnson of Sacramento, and taken with the following result:

AYES.

Messrs. Bell, Burnett, Bynum, Coffroth, Cosby, Crandall, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Johnson of El Dorado, McGee, Merritt, Sullivan, Taliaferro, Westmoreland and Wilson—17.



Messrs. Ashley, Carpenter, Goodwin, Johnson of Sacramento, McCallum, Mesick, Norman, Shaw, Soule, Waite and Woodworth—11.

So the call for the main question was sustained.

The main question being Mr. McCallum's motion to postpone until the 25th inst., was put and lost.

The question recurring on the adoption of Assembly amendments, on motion the amendments were read and concurred in.

The following message was received from the Governor :

STATE OF CALIFORNIA, EXECUTIVE DEPARTMENT, }  
Sacramento, March 16th, 1857. }

*To the Senate of California:*

I herewith send to your honorable body, in accordance with a resolution of the Senate of this day, "an Act to limit the time for presentation of claims against counties and for receiving payment for the same."

J. NEELY JOHNSON.

Mr. Sullivan, of the Committee on Engrossed bills, presented the following :

*Mr. President :*

The Committee on Engrossed bills have examined Senate bill No. 132, entitled "an Act to amend an Act entitled an Act to repeal the several charters of the city of San Francisco, to define the boundaries of the city and county of San Francisco, and to consolidate the government thereof," passed April 19th, 1856.

Also, Senate bill No. 142, entitled "an Act to prohibit noisy and barbarous amusements, and opening places of business on Sunday," and find the same correctly engrossed.

E. L. SULLIVAN.

Mr. Walkup moved to reconsider the vote by which the bill returned by the Governor was passed, which was agreed to, and on motion the bill was laid on the table.

Mr. Dosh, to whom was referred Senate bill No. 149, entitled "an Act to provide for the payment of the indebtedness of the county of Shasta, contracted prior to the 1st day of March, A. D. 1857," reported the same back to the Senate without amendment, and recommended its passage.

On motion, the rules were suspended, the bill considered engrossed, read third time and passed.

Mr. Goodwin, by leave, gave notice that he will on to-morrow or some subsequent day, introduce a bill supplementary to and amendatory of, an act entitled "An Act to authorize the formation of corporations for the construction of plank and turnpike roads," passed May 12th, 1853.

Mr. Shaw moved to adjourn; upon which the ayes and noes were demanded by Messrs. Coffroth, Johnson of El Dorado, and Burnett, and taken with the following result:

AYES.

Messrs. Ashley, Bell, Carpenter, Crandall, Dosh, Goodwin, Johnson of Sacramento, Mandeville, McGee, Merritt, Shaw, Waite, Wilson and Woodworth—14.

NOES.

Messrs. Burnett, Coffroth, Ferguson of Sierra, Johnson of El Dorado, McCallum, Mesick, Soule and Sullivan—8.

So the Senate adjourned.

Approved March 20th, 1857.

R. M. ANDERSON,  
President Senate.

Attest :

GEO. S. EVANS, Secretary Senate.

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## IN SENATE.

FRIDAY, March 20, 1857.

Senate met pursuant to adjournment.

President in the Chair.

Roll called.

Journals of yesterday read and approved.

Mr. Bynum presented a petition from the citizens of Vallejo, Solano county, relative to a wharf at Vallejo, which on motion was referred to the Committee on Commerce and Navigation.

Mr. Ashley presented a remonstrance from the citizens of the county of Santa Cruz against the passage of a bill entitled an Act to provide for the payment of the debt of Santa Cruz county, which on motion was laid on the table.

Mr. Ashley, Chairman of the Judiciary Committee, made the following report:

*Mr. President :*

The Judiciary Committee to whom was referred Senate Bill No. 137, an Act to preserve the sanctity of private reputation, and the more effectually to prevent breaches of the peace, have had the same under consideration, report the same back, and recommend its indefinite postponement.

D. R. ASHLEY,  
Chairman.

Report accepted, and bill placed on the calendar.

Mr. Goodwin made the following report :

*Mr. President :*

The Committee to whom was referred Assembly Bill No. 274, have had the same under consideration, and report it back without amendments, and recommend its passage.

GOODWIN,  
Of Committee.

Report accepted, and bill placed on the calendar.

Mr. Mandeville, by leave introduced a bill entitled an Act to grant the right to construct a turnpike road between the town of Columbia and the city of Sonora, in the county of Tuolumne, which was read first and second times, and on motion, referred to the Judiciary Committee.

Mr. Johnson of Sacramento, in accordance with previous notice given, introduced a bill entitled an Act to provide revenue for the support of the government of this State, which was read first and second time, 240 copies ordered to be printed, and on motion of Mr. Johnson of Sacramento, was made the special order for Monday next at 11 o'clock A. M.

Mr. Crandall offered the following resolution:

*Resolved*, That the Enrolling Clerk of the Senate be and he is hereby authorized to employ an assistant for the remainder of the session, from and after this date.

Adopted.

Mr. Walkup, in accordance with notice given on yesterday, moved to reconsider the vote by which Senate bill No. 166 was passed.

Mr. Dosh moved to indefinitely postpone the motion to reconsider.

Mr. McCallum moved to lay the motion to reconsider on the table, which was put and lost.

Question recurring on the motion to indefinitely postpone the motion to reconsider, it was put and carried.

Mr. Walkup, by leave, changed his vote given on the final passage of the bill to the negative.

Mr. McGee, by leave, made a verbal report on Assembly bill No. 189, entitled an Act concerning Hogs running at large in the Counties of Colusi, Tehama and Butte, and recommended its passage without amendment.

Report accepted and bill placed on calendar.

### THIRD READING OF BILLS.

Senate bill No. 132, an Act to amend an act to repeal an act entitled "an Act to repeal the various charters of the City of San Francisco, to define the boundaries of the City and County of San Francisco, and to consolidate the government thereof," was taken up and read a third time, and by unanimous consent was, on motion of Mr. Shaw, amended by adding the following section:

"Section 12. The boundaries of the City and County of San Francisco shall be as follows: Beginning in the Pacific Ocean three miles from shore, and on the line of the United States survey, separating townships two and three south, (Mount Diablo meridian,) and running thence to a point three miles from shore and on the northerly side of the entrance to the Bay of San Francisco; thence to low water mark on the northerly side of said entrance; thence following said low water mark to a point due northwest of Golden Rock; thence due southeast to a point within three miles of the natural high water mark on the eastern shore of the Bay of San Francisco; thence in a southerly direction to a point three miles from said eastern shore, and on a line with the first aforesaid line, separating said townships two and three; and thence along the said line to the place of beginning, including, however, within the said boundaries and affixing to the said City and County of San Francisco, the islands in the Bay known as Alcatraz and Yerba Buena, and the islands in the ocean known as Farrallones, and each and all of them."

Adopted.

Mr. Sullivan, by unanimous consent, offered the following amendment:

Section 3. Amendment to section 11, line 13: "To the present Chief Engineer of the Fire Department the amount now allowed by law."

"To his successors" four thousand dollars per annum.

Adopted.

Mr. Soule, by unanimous consent, offered the following amendment:

After the word "Treasury" in 39th line of section 3, "To one bailiff for each of the District Courts, one for the County Court and Courts of Sessions, and one for the Superior Court, four Jail Keepers, or Deputy Sheriffs, to be appointed by the Sheriff, with the advice and consent of the Board of Supervisors, a sum not exceeding fifteen hundred dollars per annum each."

Amendment adopted.

Mr. Coffroth, by unanimous consent, offered the following amendment:

Add after the word "sold" in section 6 the words "or exchanged."

Amendment adopted.



Mr. Westmoreland moved to lay the bill on the table. Lost.

Mr. Westmoreland moved that 240 copies of the bill be ordered printed.

Mr. Shaw moved the previous question. Carried.

Question: Shall the main question be now put? was put and carried

The main question being on the final passage of the bill, Mr. Norman called for its reading.

The Chair ruled the call out of order: That the bill was on its final passage, and had been read several times for information, and could not be again read.

From which ruling, Mr. Norman appealed.

Question: Shall the decision of the Chair stand as the judgment of the Senate? was put, and the ruling sustained as the judgment of the Senate.

The question recurring on the final passage of the bill, the ayes and noes were demanded by Messrs. Norman, Chase and Westmoreland, and taken with the following result:

#### AYES.

Messrs. Ashley, Burnett, Bynum, Carpenter, Cosby, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Mandeville, McCallum, Merritt, Mesick, Shaw, Soule, Sullivan, Taliaferro, Waite, Walkup, Wilson and Woodworth—21.

#### NOES.

Messrs. Chase, Norman and Westmoreland—3.

Messrs. Crandall, Ferguson of Sacramento, and Johnson of El Dorado, declined voting.

So the bill was passed as amended.

On motion of Mr. Merritt, the rules were suspended, and Senate Bill No 105, entitled "An Act concerning Notaries Public," was taken up and made the special order of the day for Tuesday next, at 11 o'clock A. M.

The hour having arrived for taking up the special order of the day, which was the several bills in relation to the office of State Printer, they were taken up.

On motion of Mr. Mandeville, all the bills, except the Assembly bill, was considered in Committee of the Whole.

After some time spent in considering the bills in Committee, they were reported back to the Senate with amendments.

In Senate, amendments of Committee of the Whole were concurred in, and the substitute to Senate Bill No. 17, reported from the Committee on Printing, was adopted.

On motion, the rules were suspended, substitute as adopted considered engrossed, read third time and passed.

On motion of Mr. Mandeville, Assembly Bill No. 121, in relation to State Printer, was laid on the table.

Mr. Norman moved to reconsider the vote by which the Senate substitute just adopted was ordered printed.

Lost.

Mr. Burnett moved to reconsider the vote by which the bill was passed.

Lost.

On motion of Mr. Walkup, the Secretary was instructed to have the bill copied previous to reporting the same to the Assembly.

Mr. Chase moved a suspension of the rules that he might offer an additional rule to the "standing rules of the Senate." Carried.

On motion, the rules were further suspended requiring one day's notice, when Mr. Chase offered the following as an additional rule:

Whenever a bill is voted "considered engrossed" that such bill shall be engrossed by the Engrossing Clerk in the same manner as when ordered engrossed.

Which was rejected.

#### GENERAL FILE.

Senate bill No. 142, entitled an Act to prohibit noisy and barbarous amusements, and opening places of business on Sunday, being under consideration,

Mr. Woodworth moved to recommit the bill to the Judiciary Committee with the following instructions:

Strike out the word "concert;" add, "*provided*, that nothing herein contained shall prohibit concerts of vocal or instrumental music."

Upon which the ayes and noes were demanded by Messrs. Burnett, Fiske and Cosby, and taken with the following result:

#### AYES.

Messrs. Ashley, Bynum, Carpenter, Coffroth, Ferguson of Sacramento, Ferguson of Sierra, Johnson of Sacramento, Merritt, Mesick, Norman, Shaw, Soule, Sullivan, Waite, Westmoreland, Wilson and Woodworth—17.

#### NOES.

Messrs. Bell, Burnett, Chase, Cosby, Crandall, Dosh, Fiske, Goodwin, Johnson of El Dorado, Mandeville, McCallum and Walkup—12.

So the bill was recommitted with instructions.

Assembly bill No. 158, entitled an Act to amend section 6 of an Act to provide for the erection of a Jail in the County of Tuolumne, passed April 18, 1856, was considered.

The amendments reported by the Committee were adopted, and the bill as amended read a third time and passed.

Assembly bill No. 212, entitled an Act supplementary to an Act entitled "An Act to provide for the appointment and prescribe the duties of Guardian," passed April 19th, 1850," was considered in Committee of the Whole. After sometime spent in considering the bill in Committee, the Committee rose and reported back the same without amendments.

In Senate. The bill was read a third time and passed.

Assembly bill No. 98, entitled an Act to fix the compensation and pay of the members of the Senate and Assembly of the State of California, was considered in Committee of the Whole. After some time so spent in its consideration, the Committee rose and reported the bill back to the Senate without amendments.

In Senate. Mr Taliaferro moved the indefinite postponement of the bill.

Mr Ashley moved the previous question; which was sustained.

The question being: Shall the main question be now put? was put and carried.

The main question being Mr. Taliaferro's motion to indefinitely postpone the bill, the ayes and noes were demanded by Messrs. Chase, Ashley and Taliaferro, and taken with the following result:

#### AYES.

Messrs. Bell, Chase, Crandall, Dosh, Ferguson of Sacramento, Fiske, Johnson of Sacramento Johnson of El Dorado, Mandeville, McGee, Merritt, Taliaferro and Walkup—13.

#### NOES.

Messrs. Ashley, Burnett, Coffroth, Cosby, Goodwin, McCallum, Mesick, Norman, Shaw, Soule, Sullivan, Waite, Westmoreland and Wilson—14.

Messrs. Carpenter and Ferguson of Sierra declined voting.

So the motion to indefinitely postpone was lost.

The question being upon the third reading of the bill, the ayes and noes were demanded by Messrs. Merritt, McGee and Taliaferro, and taken with the following result:

#### AYES.

Messrs. Ashley, Burnett, Coffroth, Cosby, Goodwin, McCallum, Mesick, Norman, Shaw, Soule, Sullivan, Waite, Westmoreland, Wilson and Woodworth—15.

## NOES.

Messrs. Bell, Carpenter, Chase, Crandall, Dosh, Ferguson of Sacramento, Fiske, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McGee, Merritt, Taliaferro and Walkup—14.

Mr. Ferguson of Sierra declined voting.

So the bill was read a third time.

Mr. Walkup moved to recommit the bill with special instructions.

The Chair decided the motion out of order, the Senate being under the operation of the previous question.

Mr. Walkup appealed from the decision of the Chair.

Mr. Mandeville rose to a point of order "Can the Chair entertain an appeal pending the previous question."

The Chair decided that an appeal could be taken pending the previous question.

Mr. Mandeville appealed from this decision of the Chair.

The question being, "Shall the decision of the Chair stand as the judgment of the Senate?" the ayes and noes were demanded by Messrs. Merritt, Carpenter and Mandeville, and taken with the following result:

## AYES.

Messrs. Bell, Burnett, Carpenter, Chase, Coffroth, Ferguson of Sacramento, Johnson of El Dorado and Taliaferro—8.

## NOES.

Messrs. Ashley, Cosby, Crandall, Dosh, Goodwin, Johnson of Sacramento, Mandeville, McGee, Merritt, Mesick, Norman, Shaw, Soule, Sullivan, Waite, Westmoreland, Wilson and Woodworth—18.

Messrs. Fiske and Walkup, declined voting.

So the decision of the Chair was not sustained.

The question recurring upon the passage of the bill, the ayes and noes were demanded by Messrs. Merritt, Mandeville and Carpenter, and taken with the following result:

## AYES.

Messrs. Ashley, Burnett, Coffroth, Cosby, Goodwin, McCallum, Mesick, Norman, Shaw, Soule, Sullivan, Waite, Walkup, Westmoreland, Wilson and Woodworth—16.



## NOES.

Messrs. Bell, Carpenter, Chase, Crandall, Dosh, Ferguson of Sacramento, Fiske, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McGee, Merritt and Taliaferro—13.

So the bill was passed.

Mr. Waite moved to reconsider the vote on the passage of the bill.

Mr. Walkup gave notice that on to-morrow he should move to reconsider the vote by which the bill was passed.

Mr. Ashley moved the previous question, which was not sustained.

Mr. Mandeville moved to lay Mr. Waite's motion to reconsider on the table.

Mr. Walkup rose to a point of order:

Mr. Waite's motion to reconsider was not seconded, his own notice of reconsideration was in order and laid over until to-morrow.

The Chair decided the point of order not well taken.

Mr. Ashley again moved the previous question, which was not sustained.

Mr. Mandeville moved that the Senate adjourn; upon which the ayes and noes were demanded by Messrs. Ashley, Sullivan and Coffroth, and taken with the following result:

## AYES.

Messrs. Bell, Carpenter, Chase, Crandall, Dosh, Ferguson of Sacramento, Fiske, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McGee, Merritt, Norman, Taliaferro, Walkup and Westmoreland—16.

## NOES.

Messrs. Ashley, Burnett, Coffroth, Cosby, Goodwin, McCallum, Mesick, Soule, Sullivan, Waite, Wilson and Woodworth—12.

So the Senate adjourned.

Approved March 21st, 1857.

S. H. DOSH,  
President Senate *pro tem.*

Attest:

GEO. S. EVANS, Secretary Senate.

## IN SENATE.

SATURDAY, March 21, 1857.

Senate met pursuant to adjournment.

President *pro tem.* in the Chair.

Roll called.

Journals of yesterday read and approved.

On motion of Mr. Goodwin, leave of absence was granted Mr. De La Guerra for three days from yesterday.

On motion of Mr. Carpenter, leave of absence was granted Mr. Johnson of El Dorado, for three days.

On motion of Mr. Norman, leave of absence was granted Mr. Bynum for three days.

Mr. Walkup made the following report:

*Mr. President :*

The Committee on Roads and Highways have considered Senate Bills No. 46 and 89, and herewith report a substitute for both bills.

JOS. WALKUP,  
B. D. WILSON,  
JNO. B. MCGEE.

Report accepted, substitute read twice, and 240 copies ordered printed.

Mr. Ashley, Chairman of Judiciary Committee, made the following report:

*Mr. President:*

The Judiciary Committee have had under consideration Senate Bill No. 172, an Act to grant the right to construct a Turnpike Road between the town of Columbia and the city of Sonora, in the County of Tuolumne, and recommend its passage.

D. R. ASHLEY,  
Chairman.

March 20, 1857.

Report accepted.

On motion of Mr. Mandeville, the rules were suspended, and the bill considered in Committee of the Whole.

The Committee rose and reported the bill back to Senate without amendments.

In Senate. On motion of Mr. Mandeville, the rules were further suspended, bill considered engrossed, read a third time and passed.

Mr. Walkup, from the Committee of Free Conference, made the following report:

*Mr. President :*

The Committee of Conference on Assembly Bill No. 254, recommend the adoption of the following amendments, and the passage of the bill.

JAMES WALKUP,  
Of Senate Committee.

1st. Amend the title so as to read "an Act concerning delinquent taxes in the Counties of this State."

2d. Strike out the word "March," in first line, and insert "April."

3d. Strike out in second and third lines the words "Sacramento and Sutter," and insert "this State."

4th. Insert as additional section, "so much of this Act as authorizes the receiving of county warrants for delinquent taxes, shall not be applicable to the county of Monterey, nor to the city and county of San Francisco, but the Treasurer of the city and county of San Francisco shall receive, in payment of all taxes or other dues payable into and belonging to the treasury of said city and county, all lawful demands on said treasury payable out of the general fund, or police fund which have been duly audited since the first day of July, A. D. 1856, and registered by the Auditor and Treasurer, as required by law. If the said Treasurer shall refuse to receive such demand when offered in payment as aforesaid, he shall be deemed guilty of a misdemeanor in office, and on conviction thereof shall, for each offense, be adjudged to pay a fine equal to the amount of the audited demands so offered and refused, which fine shall be received and paid into the treasury for the same use as other fines imposed and collected in said city and county."

Report accepted, and with bill placed on calendar.

Mr. Johnson of Sacramento, asked and obtained leave to have the petition of the Mayor and Council of Sacramento city, relative to the construction of a bridge across the Sacramento river, heretofore referred to the Sacramento delegation, referred to the Judiciary Committee.

Mr. Burnett made the following report :

*Mr. President :*

The delegation from Yuba county, to whom was referred Assembly bill No 25, for an Act entitled "an Act to provide for funding the indebtedness of the county

of Yuba," have had the same under consideration, and recommend its passage with the following amendments :

In line six, section 18, after the word "county" insert as follows :

"Excepting such claims and demands as may be payable out of any special fund."

In line six of section 19 strike out the word "one" and insert the word five."

Annex the following additional section :

Section 20. It shall not be lawful for the Board of Supervisors of said county of Yuba, except as in this Act provided, to make any assessment or lay any tax to be used or applied in any way for the payment or liquidation of any of the indebtedness of the county of Yuba, made, created or incurred prior to the first day of July A. D. 1857, other than claims or demands against any special fund, and every such assessment or tax laid contrary to the provisions of this section, shall be absolutely null.

W. C. BURNETT,

Of Committee.

Report adopted, and on motion of Mr. Burnett the rules were suspended and bill considered, amendments of Committee adopted, bill read a third time and passed.

Mr. Burnett, Chairman of the Committee on Elections, made the following report :

*Mr. President:*

The Committee on Elections have had Senate Bill No. 159, for an Act to amend an Act entitled an Act to regulate Elections, passed March 23d, 1850, under consideration, and report the same back, and a majority recommend its assage.

W. C. BURNETT, Chairman.

Report accepted, and with bill placed on file.

Mr. Sullivan, of the Committee on Engrossed Bills, made the following report:

*Mr. President:*

The Committee on Engrossed Bills have examined Senate Bill No. 113, entitled an Act amendatory of and supplementary to an Act to establish, regulate and support Common Schools, and to repeal former Acts concerning the same, approved May 3d, 1855.

Also, Senate Bill No. 164, entitled an Act to guard against the destruction of property by fire by means of sparks from the chimneys of steamboats navigating certain waters of this State, and find the same correctly engrossed.

E. L. SULLIVAN,

Of Committee.

March 20th, 1857.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly on yesterday passed the following Assembly bills, viz:



Assembly Bill No. 231, an Act to provide for the erection of a Jail in San Bernardino County.

Also, Assembly Bill No. 242, an Act to define the time of holding the District Court in the 14th Judicial District.

Also, Assembly Bill No. 239, an Act supplemental to an act entitled "an Act to create a Board of Commissioners to examine the claims of the Counties of Klamath, Siskiyou and Humboldt, and report to the Governor of this State the amount of the just claims held by the citizens of those Counties for services rendered and supplies furnished to the troops and volunteers engaged in the suppression of Indian Hostilities in the years 1852, '53, '54, and '55," passed April 18th, 1856.

Also, have passed Senate Bill No. 94, an Act granting certain Swamp and Overflowed Lands to the City of Sacramento.

Also, Senate Bill No. 117, an Act to authorize the executor of a bond under "an Act for funding the Debt of the City of San Francisco," passed May 7, 1855.

Also, Senate Bill No. 138, an Act to amend and supplemental to "an Act to authorize the formation of Corporations for the construction of Plank and Turnpike Roads," passed May 12, 1853.

The House appointed Messrs. Brent, Clark and Stevenson a Committee of Free Conference on the part of the Assembly on Assembly Bill No. 254, an Act concerning delinquent Taxes in this State.

Also, has indefinitely postponed Senate Bill No. 57, an Act to amend an act entitled "an Act concerning County Judges," passed April 4th, 1854.

Also, have amended and passed Senate Bill No. 20, an Act concerning persons under sentence of imprisonment, and ask the concurrence of the Senate in amendments.

Also, passed Assembly Bill No. 213, an Act to abolish the Superior Court of the City of San Francisco, to provide for the transfer of its records, books, papers, actions and other matters therein, and for the preservation of the rights and interest of parties.

W. CAMPBELL,  
Clerk Assembly.

Assembly Bill No. 231 was read first and second time, and referred to the Delegation from San Bernardino County.

Assembly Bill No. 242 was read first and second time, and referred to the Delegation from Nevada, Plumas and Sierra.

Assembly Bill No. 239 was read first and second time, and referred to the Committee on Claims.

Senate Bill No. 20, Senate refused to concur in Assembly amendments, and on motion of Mr Ashley, a Committee of Free Conference was appointed, consisting of Messrs. Johnson of Sacramento, Waite and McCallum, to consider the same.

Assembly Bill No. 213, was read first and second time, and referred to the Judiciary Committee.

The following message was received from the Assembly :

*Mr. President:*

I am directed to inform the Senate that the Assembly have, this day, passed Senate bill No. 1, an Act recommending to the Electors to vote for or against a Convention to revise and change the Constitution of this State.

J. W. SCOBEEY,  
Assistant Clerk.

March 20, 1857.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly, on the 18th instant, passed Assembly bill No. 291, an Act amendatory of an Act entitled "An Act to amend an Act to provide revenue for the support of the Government of this State, passed May 13, 1854, approved April 27, 1855."

Also, passed on yesterday, the 20th inst., Assembly bill No. 262, an Act making orders or warrants drawn on the County Treasurer of Stanislaus County, and payable out of the County revenue, receivable for County dues and taxes in said County.

Also, Senate bill No. 156, and Act to establish the County Seat of Tehama County.

Also, Senate bill No. 149, an Act to provide for the payment of the indebtedness of the County of Shasta contracted prior to the 1st day of March, A. D. 1857.

Also, Assembly bill No. 290, an Act supplementary to an Act entitled "An Act to provide for the incorporation of Railroad Companies, passed April 22d, 1853, and to the several Acts amendatory thereto.

W. CAMPBELL,  
Clerk of Assembly.

Assembly bill No. 291 was read first and second time.

On motion of Mr. Walkup, the rules were suspended and bill considered.

Mr. Ashley offered the following amendment:

After the word "special" insert "and other."

Amendment adopted.

On motion, the bill was read a third time and passed as amended.

Mr. Craudall, Chairman of the Enrolling Committee, made the following report:

*Mr. President:*

Your Committee on Enrolled bills have examined and found correctly enrolled Senate bill No. 153, an Act to regulate the Fire Department of the City and County of San Francisco.

Also, an Act to grant the right to construct a bridge across the Sacramento river, between the city of Sacramento and the town of Washington, to certain persons therein named.

D. CRANDALL,

Chairman.

Mr. Wilson, by leave, introduced a bill entitled, "an Act to amend an Act concerning Judges of the plains, (*Jouces del campo*," and defining their duties, which was read first and second time. On motion, the rules were suspended, bill considered engrossed, read a third time and passed.

Mr. Wilson, by leave, introduced a bill entitled "an Act concerning the officia bonds of Justices of the Peace in the first Judicial district," which was read first and second times. On motion the rules were suspended, bill considered engrossed, read a third time and passed.

Assembly bill No. 202, "an Act making certain orders and warrants receivable for county dues and taxes in Stanislaus county," was read first and second times, and referred to the delegation from Tuolumne.

Assembly bill No. 290, an Act relative to Railroads, was read first and second times, and referred to the Committee on Corporations.

Mr. Goodwin introduced a bill entitled "an Act to amend an Act entitled an Act to authorize the formation of plank or turnpike roads," passed May 12th, 1853, which was read first and second times, and referred to the Committee on Corporations.

Mr. Ashley presented the following resolution :

*Resolved*, That the proper officers of the Senate are directed and authorized to certify to the accounts of the official Reporter, for his services, at fourteen dollars per day during the session.

Adopted.

Mr. Burnett presented the following resolution :

*Resolved*, by the Senate, That J. N. Irwin be paid \$108 for twelve days' services as clerk of the Senate Committee on Claims, to be taken from the Contin- gent Fund of the Senate.

Adopted.

Mr. Bell, by leave, presented a memorial from Sherman Day, praying relief for surveying the State prison grounds, which was read and referred to Committee on State prison.

Mr. Norman made the following report :

*Mr. President:*

The Committee on Enrolled bills have examined and found correctly enrolled Senate bill No. 157, and ask leave to report the same back to the Senate.

W. B. NORMAN.

Mr. Taliaferro made the following report :

*Mr. President :*

Your Committee on Hospitals, to whom was referred Assembly Bill No. 38, entitled "An Act to amend an Act to establish an Asylum for the insane of the State of California," passed May 17th, 1853, would respectfully submit that the first section of this bill is nothing more than an enactment of the eighth section of the fifth article of the Constitution. By striking out the twelfth section of the "Act to establish an Asylum for the Insane of the State of California," the power of the Governor to fill vacancies under the Constitution will be identical with that proposed to be conferred upon him by the first section of this act.

In regard to the second section of this Act, your Committee would respectively submit, that whilst they concur in the propriety of guarding against the abuse of appropriating the labor of the patients to private emolument, they would not limit their labor to the improvement of the Hospital grounds. The occupation of the patients is better left to the direction of the Physician who has charge of the discipline of the institution, than to the direction of any rigid rule of law. In view, then, of the objections given to this bill, your Committee beg leave to introduce a substitute for it, which they hope the Senate will adopt.

Respectfully submitted,

ALFRED W. TALIAFERRO.

Report accepted, and with bills placed on calendar.

On motion of Mr. Westmoreland, leave of absence was granted Mr. Merritt for two days.

Mr. Johnson of Sacramento, offered the following resolution:

*Resolved*, That the Controller of State be required to furnish the Senate a statement of delinquent taxes remaining due and unpaid from the several counties of this State from the formation of the government up to the present time.

Adopted.

On motion of Mr. Wilson, indefinite leave of absence was granted Mr. De La Guerra.

On motion of Mr. Westmoreland, the Senate adjourned.

Approved March 23d, 1857.

S. H. DOSH,  
President Senate *pro tem*.

Attest :

GEO. S. EVANS, Secretary Senate.



## IN SENATE.

MONDAY, March 23d, 1857.

Senate met pursuant to adjournment.

President *pro tem.* in the Chair.

Roll called.

Journals of Saturday read and approved.

Mr. Walkup rose to a question of privilege, and corrected a publication in the Union newspaper representing him as favoring repudiation.

Mr. Walkup in the chair.

Mr. Dosh rose to a question of privilege and corrected a publication in the Union newspaper relative to his withdrawal from the chair on Saturday last, and of his remarks on the subject of the pay of members of the next Legislature.

Mr. Cosby was granted leave of absence for three days.

Mr. Burnett, of the Committee on Claims, made the following report :

*Mr. President:*

The Committee on Claims, to whom was referred Assembly concurrent resolution for the relief of Gen. A. M. Winn, have had the same under consideration, and respectfully report that the amount claimed by Gen. Winn is in their opinion actually due to him from the U. S. Government, for moneys advanced under and in accordance with Mexican laws, for the care of indigent sick in the city of Sacramento, at a time when California had not become a State.

W. C. BURNETT,  
Of the Committee on Claims.

Report accepted, and with resolution placed on calendar.

Mr. Waite, Chairman of the Committee on Corporations, made the following report :

*Mr. President:*

The Committee on Corporations have examined Assembly Bill No. 207, an Act supplementary to an Act entitled an Act to provide for the formation of corporations for certain purposes, passed April 14, 1853, and report in favor of its passage, with the amendments proposed.

WAITE, Chairman.

Amend section first, line 28, by striking out "place of" and in same line, striking out "located" and inserting "transacted," in place of "located"

In section second, lines 23 and 24, strike out and insert same as above.

Also, in line 39, strike out and insert as marked, so as to conform.

Strike out last section.

Report accepted, and with bill placed on calendar.

The following message was received from the Assembly :

*Mr. President:*

I am directed to inform the Senate that the Assembly on the 16th inst. passed Assembly Bill No. 244, an Act to reincorporate the city of Stockton.

Also, the Assembly on the 19th inst., passed the following bills :

Assembly Bill No. 265, an Act to amend an Act concerning marks and brands, passed May 1st, 1851.

Also, Assembly Bill No. 223, an Act supplemental to an Act relating to corporations.

Also, Assembly Bill No. 278, an Act to amend an act entitled "An Act to provide for the formation of corporations for certain purposes," passed April 12th, 1853.

Also, Assembly Bill No. 238, an Act to amend an act to regulate proceedings in criminal cases, passed May 1st, 1851.

Also, Assembly Bill No. 224, an Act to authorize the Supervisors of Fresno county to levy a special tax.

Also, passed on the 19th inst., Assembly Bill No. 256, an Act to authorize the Board of Supervisors of San Joaquin county to appropriate money.

Also, Assembly Bill No. 261, an Act amendatory of and supplementary to, an act entitled "An Act to provide for the indigent sick in the counties of this State," approved April 13th, 1855.

Also, Senate Bill No. 165, an Act to provide for the payment of the debts of the counties of San Luis Obispo and Santa Barbara.

Also, Senate Bill No. 139, an Act to amend an act entitled "An Act concerning the office of County Treasurer," passed May 27th, 1850.

Also, on the 21st inst., concurred in Senate concurrent resolution relating to the school land.

W. CAMPBELL,

Clerk of Assembly.

March 23d, 1857.

Assembly Bill No. 244, was read first and second times and referred to the Delegation from San Joaquin.

Assembly Bill No. 265, was read first and second times and referred to the Committee on Agriculture.

Assembly Bill No. 223, was read first and second times and referred to the Committee on Corporations.

Assembly Bill No. 278, was read first and second times and referred to the Committee on Corporations.

Assembly Bill No. 238, was read first and second times and referred to the Judiciary Committee.

Assembly Bill No. 224, was read first and second times and referred to the Delegation from Mariposa.

Assembly Bill No. 256, was read first and second times and referred to the Delegation from San Joaquin.

Assembly Bill No. 261, was read first and second times and, on motion of Mr. Mandeville, referred to the Delegation from Tuolumne.

Mr. Sullivan introduced a bill for an act defining the boundaries of the fourth and twelfth Judicial Districts of this State, which was read first and second times and placed on calendar.

Mr. Mandeville offered the following resolution :

*Resolved*, That the official Reporter of the Senate shall be paid his salary out of the Contingent Fund set apart for expenses of the Senate.

Adopted.

#### THIRD READING OF BILLS.

Senate bill No. 113, "an Act amendatory of and supplementary to an Act to establish, support and regulate common schools, and to repeal former Acts concerning the same," approved May 3d, 1855, was read a third time and passed.

Senate bill No. 164, "an Act to guard against the destruction of property by fire by means of sparks from the chimneys of steamboats navigating certain waters of this State," was read a third time and passed.

#### GENERAL FILE.

Senate bill No. 162, "an Act supplementary to an Act entitled an Act to exempt the homestead and other property from forced sale in certain cases," passed April 21st, 1851, was considered in Committee of the Whole, reported back to the Senate with amendments.

In Senate. Amendments of committee concurred in, and bill rejected.

Senate bill No. 155, "an Act relating to and fixing the residence of the County Judge of the county of El Dorado," was on motion of Mr. Fiske, made the special order of the day for Thursday next, the 26th inst., at 11 o'clock.

Senate bill No. 8, "an Act to legalize certain conveyances," was considered in Committee of the Whole, amended, and reported back.

In Senate. Amendments of committee concurred in, and bill ordered engrossed and read a third time.

Senate bill No. 66, "an Act supplemental to an Act to provide for funding the legal and equitable debt of the city of San Francisco, for the final redemption of

the same," approved May 7th, 1855, was on motion of Mr. Shaw, made the special order for Wednesday, April 1st, at 12 o'clock.

Senate Bill No. 177, an Act concerning roads and highways," substitute for Senate bills 46 and 89, was placed at the foot of the calendar.

Senate Bill No. 159, an Act to amend an Act entitled an Act to regulate elections, passed March 23d, 1850, being under consideration, Mr. Shaw moved to make the bill the special order of the day for the 5th of April next, which was lost.

Mr. Mandeville moved to make the bill the special order of the day for Wednesday next at 11 o'clock, which was carried.

Senate Bill No. 178, an Act amendatory and supplementary to an Act to establish an Asylum for the Insane of the State of California, passed May 17th, 1853, substitute for Assembly Bill No. 38, was read first and second times, and ordered to be engrossed and read a third time.

Senate Bill No. 130, an Act to preserve the sanctity of private reputation, and more effectually to prevent breaches of the peace, was on motion laid on the table.

Assembly Bill No. 274, an Act supplementary to and amendatory of an Act entitled an Act to alter and define the boundary line of Tehama county, approved February 19, 1857, was read a third time and passed.

Assembly Bill No. 189, an Act concerning hogs found running at large in the counties of Colusi, Tehama and Butte, was considered.

Mr. McGee moved to amend as follows :

In title, after the word "Tehama," in second line, strike out the word "and," and after the word "Butte," in same line, insert "Napa and Sonoma."

In section one, line two, strike out the word "and," and in the second line, after the word "Butte" insert Napa and Sonoma, which was adopted.

The bill was then read a third time, and passed as amended.

Assembly Bill No. 181, an Act to provide for the funding of the indebtedness of the county of Klamath, was read a third time and passed.

Senate Bill No. 169, an Act to amend an act entitled "An Act to create a Board of Supervisors in the counties of this State, and to define their duties and powers," was ordered engrossed and read a third time.

Senate Bill No. 171, an Act amendatory of and supplementary to an Act in relation to personal mortgages in certain cases, substitute for Senate Bill No. 58, and Assembly Bill No. 132, was considered in Committee of the Whole, and reported back, without amendments.

In Senate, on motion, 240 copies ordered printed, and bill laid on the table.

The following message was received from the Assembly :



*Mr. President :*

I am directed to inform the Senate that the Assembly have this day refused to concur in Senate amendments to Assembly Bill No 158, an Act to amend section 6, of an Act to provide for the erection of a jail in the county of Tuolumne, passed April 18th, 1856, and ask that the Senate recede from its amendment.

J. W. SCOBEEY,

Assistant Clerk.

Bill considered, and on motion of Mr. Mandeville, laid on the table.

Assembly concurrent resolution for the relief of Gen. A. M. Winn was read and concurred in.

Assembly Bill No 207, an Act supplementary to an Act entitled "an Act to provide for the formation of corporations for certain purposes, passed April 14th, 1853, was considered in Committee of the Whole, amended and reported back.

In Senate. Amendments adopted. Bill read a third time and passed.

Senate Bill No. 179, an Act defining the boundaries of the Fourth and Twelfth Judicial Districts of this State, was considered.

On motion of Mr. Shaw, the rules were suspended, the bill considered engrossed, read a third time and passed.

On motion of Mr. Ashley, the Senate took a recess of fifteen minutes to prepare for the trial of Geo. W. Whitman, Controller of State.

The Senate re-assembled at the time appointed, and the President *pro tem.* announced the suspension of all Legislative and Executive business, and that the Senate was now organized as a High Court of Impeachment for the trial of Geo. W. Whitman, Controller of State.

Whereupon the Sergeant-at-Arms of the Senate made proclamation of the fact at the door, and the Secretary informed the Assembly, as required by the rules, that the Senate was organized as a Court, and ready to proceed with the trial of Geo. W. Whitman.

## HIGH COURT OF IMPEACHMENT.

President *pro tem.* presiding.

Roll called.

Absent—Messrs Bynum, Carpenter, Coffroth, Cosby, De La Guerra, Ferguson of Sacramento, Johnson of El Dorado, Melony and Merritt.

Geo. W. Whitman, with his counsel, appearing within the Bar of the Senate, the Secretary proceeded to read to him the following replication to the answer of said Whitman, as filed by the Managers on the part of the Assembly:

*The Replication of the Assembly of the State of California in their own behalf, and also in the name of the People of said State, to the answer of G. W. Whitman, made to the Articles of Impeachment exhibited by them to the Senate against said G. W. Whitman.*

The Assembly of the State of California, prosecuting on behalf of themselves and the people of said State, the articles of impeachment exhibited by them to the Senate of said State against the said G. W. Whitman, reply to the answer of said G. W. Whitman thereto, and do aver their charges against the said G. W. Whitman for misdemeanors in office to be true, and that the said G. W. Whitman is "guilty" in such manner as he stands impeached, and that the Assembly will be ready to prove their charges against him at such convenient time as shall be appointed for that purpose, and ask leave so to do.

And, for further replication to the answers of said G. W. Whitman to articles numbered 1st, 4th, 5th, 6th and 7th, said Assembly, in their own behalf and in behalf of the people of the State of California, say that said answers thereto and the matters therein set up by said Whitman in avoidance thereof, amount to the general pleas of "not guilty;" and said Assembly, in their own behalf and in behalf of the people of the State of California, do hereby take issue upon the truth and sufficiency of the matters, both of law and fact, set up in said answers as defense to the articles of impeachment above mentioned, and ask permission to prove and make good the same.

And, for further replication in this behalf to the answer of said G. W. Whitman to the second article of impeachment, said Assembly say and aver that the charges made and preferred in, and by said article second, are not by said answer thereto, specifically denied, but are attempted to be avoided by matters set up in avoidance, which are wholly insufficient to justify the failure of said G. W. Whitman to reply to the communications of His Excellency, J. Neely Johnson, Governor of California, in this—

1st. Absence from his office is no sufficient reason or excuse for the non-performance of the duties of Controller by said G. W. Whitman during the time he held said office.

2d. A failure on the part of the Treasurer of the State to discharge his duty, can work no excuse for the non-performance of duty by the Controller, since the information desired by His Excellency, Gov. Johnson, was not dependent upon the Treasurer's reports.

3d. It is not the province of the Controller to inquire into the motives and intentions of the Executive, but it is the duty of the Controller to respond suitably to the Governor's official communications without unnecessary delay.

4th. The Governor of the State of California is not the legal adviser of the Controller or other State officers, and acts done in pursuance to his advice by the Controller, can in nowise excuse that officer or exempt him from the consequences of such acts.

5th. All the matters set up by G. W. Whitman, as an avoidance to said charges in the second article of impeachment, should have been embraced in a reply to the communications of His Excellency, J. Neely Johnson, set forth in said articles.

Wherefore, for insufficiency of the avoidance set up in said answer to such facts as are by said answer admitted and confessed, said Assembly, on behalf of themselves and on behalf of the people of the State of California, pray judg-

ment of "Guilty" to be entered by this Honorable Court against said G. W. Whitman.

And for further replication in this behalf to the answer of said G. W. Whitman to the third article of impeachment, said Assembly say and aver, that the charges by said article made and preferred are not by said answer thereto specifically denied, but are admitted, confessed and made good, and are attempted to be avoided by matters set up which are wholly insufficient to justify the acts charged in said article to have been done by said G. W. Whitman, as Controller, without authority of law, in this—

1st. The amounts alleged and admitted to have been drawn to J. M. Estell as Lessee of the State Prison, in State Warrants, were not due at the time they were drawn, as will and does appear from the pleadings.

2d. All amounts (if any) due J. M. Estell, as appears from the pleadings, were due him upon a contract and not as a salary, as contemplated by the Act of the 16th April, 1856, recited in the pleadings.

3d. The warrants drawn for the first month's pay of J. M. Estell, under the contract cited in the pleadings, are not included or alluded to, in the said third article of impeachment.

4th. The averment of G. W. Whitman, made in his answer to third article, that he acted under a misapprehension of the law, or under the advice of the Governor of the State, can in no wise excuse his acts or enable him to avoid the consequences of his official acts or justify his official misconduct.

5th. All the matters in avoidance set up in said answer to article third are insufficient and fallacious. Wherefore, for insufficiency of the avoidance set up in said answer to such facts as are by said answer admitted and confessed, said Assembly on behalf of themselves and on behalf of the People of the State of California, pray judgment of "Guilty" to be entered by this Honorable Court against said G. W. Whitman.

E. T. BEATTY,  
Speaker of Assembly.

Attest:

W. CAMPBELL, Clerk of Assembly.

Mr. Goodwin offered the following order:

A number of Senators being absent, it is therefore

*Ordered*, That no Senate is now in session.

Lost by the following vote:

NOES.

Messrs. Ashley, Chase, Crandall, Dosh, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Mandeville, McCallum, McGee, Norman, Shaw, Soule, Waite, Walkup, Westmoreland, Wilson and Woodworth—19.

Messrs. Bell, Burnett and Sullivan declined voting.

Mr. McCallum offered the following order:

*Ordered*, As the opinion of this Court, that any member of this Court may preside during its sessions.

## AYES.

Messrs. Ashley, Bell, Burnett, Chase, Crandall, Dosh, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Mandeville, McCallum, McGee, Mesick, Norman, Shaw, Sullivan, Taliaferro, Waite, Walkup, Westmoreland, Wilson and Woodworth—23.

## NOES.

Mr. Soule—1.

Upon which the Respondent's Counsel filed the following protest:

*The People vs. G. W. Whitman:*

The Counsel for the said Respondent enter their protest against any action in the above entitled cause at this time, under the Articles of Impeachment, on the ground that the Court is not properly constituted.

EDWARDS,

PERLY,

WHITMAN,

Respondent's Counsel.

Mr. Mandeville offered the following order:

*Ordered,* That this Court do now adjourn until to-morrow at 12 o'clock M.

There being several orders for adjournment before the Court, with conditions attached, Mr. Mandeville moved that the order offered by Mr. Mandeville be first put, which was adopted by the following vote:

## AYES.

Messrs. Ashley, Bell, Chase, Crandall, Ferguson of Sierra, Goodwin, Johnson of Sacramento, Mandeville, McGee, Mesick, Norman, Sullivan, Taliaferro, Waite, Walkup, Westmoreland, Wilson and Woodworth—18.

## NOES.

Messrs. Dosh, Fiske, McCallum, Shaw, Soule—5.

There being no objection, the Chair announced the order offered by Mr. Mandeville as adopted, and the Court adjourned until to-morrow at 12 o'clock M.

Mr. Soule gave notice that, on to-morrow, he would move a reconsideration of the vote by which Senate bill No. 66 was made the special order of the day for Wednesday, April 1st.

On motion of Mr. Fiske, the Senate adjourned.

Approved March 24th, 1857.

S. H. DOSH,

President Senate *pro tem.*

Attest:

GEO. S. EVANS, Secretary Senate.



## IN SENATE.

TUESDAY, March 24th, 1857.

Senate met pursuant to adjournment.  
 The President *pro tem.* in the Chair.  
 Roll called.  
 Journals of yesterday read and approved.

Mr. Crandall, Chairman of the Committee on Enrollment, made the following report:

*Mr. President :*

Your Committee on Enrolled bills have presented to the Governor:

An Act to grant the right to construct a Bridge across the Sacramento River, between the City of Sacramento and the Town of Washington, to certain parties therein named.

Also, an Act to regulate the Fire Department of the City and County of San Francisco.

Also, an Act to enforce more effectually the attendance of witnesses on the summons of either House of the Legislature of this State, and to compel them to discover testimony.

Also, an Act to authorize the Executor or Administrator of the estate of Josefa Soto de Stokes, deceased, to sell the real estate of said deceased at public or private sale.

D. CRANDALL,  
 Chairman.

Mr. Wilson made the following report:

*Mr. President :*

The Committee to whom was referred Assembly bill No. 231, an Act to provide for the erection of a Jail in San Bernardino County, has had the same under consideration, and beg leave to return the same back to the Senate without amendment, and recommend its passage.

B. D. WILSON.

The following message was received from the Assembly:

*Mr. President :*

I am directed to inform the Senate that the Assembly, on yesterday, passed Assembly bill No. 120, an Act to prohibit the erection of weirs and other obstructions to the run of Salmon.

Also, Assembly bill No. 234, an Act explanatory of an Act to amend an Act to reduce and establish the salaries of officers, and pay of members of the Legislature.

Also, Assembly bill No. 148, an Act to ascertain the amount of indebtedness from the County of Napa to the County of Solano, and provide for the payment of the same.

Also, Assembly bill No. 250, an Act to locate the County Seat of Butte County.

Also, Assembly bill No. 300, an Act amendatory of and supplementary to an Act to Incorporate the City of Sacramento, passed March, 1851.

Also, passed Senate bill No. 164, an Act to guard against the destruction of property by fire by means of sparks from chimneys of steamboats navigating certain waters of this State.

W. CAMPBELL,

Clerk Assembly.

March 24, 1857.

Assembly bill No. 120 was read first and second time, and referred to the Committee on Commerce and Navigation.

Assembly bill No. 234 was read first and second time.

Mr. Mandeville moved to suspend the rules and consider the bill further.

Mr. McCallum moved to indefinitely postpone the bill, upon which the ayes and noes were demanded by Messrs. McCallum, Mandeville and Soule, and taken with the following result :

AYES.

Messrs. Ashley, Burnett, Bynum, Crandall, Ferguson of Sierra, Fiske, Goodwin, McCallum, Merritt, Norman, Shaw, Soule, Sullivan, Waite, Walkup and Woodworth—16.

NOES.

Messrs. Bell, Carpenter, Chase, Dosh, Ferguson of Sacramento, Johnson of Sacramento, Johnson of El Dorado, Maudeville, McGee, Mesick, Taliaferro, Westmoreland and Wilson—13.

So the bill was indefinitely postponed.

Assembly bill No. 148, was read first and second times.

Mr. Burnett moved to suspend the rules and consider the bill further.

Carried.

On motion of Mr. Burnett, the vote by which the rules were suspended, was reconsidered, and the bill referred to the Senator from Solano.

Assembly bill No. 250, was read first and second times, and on motion of Mr. McGee, the rules were suspended, the bill read a third time and passed.

Assembly bill No. 300, was read first and second time, and referred to the delegation from Sacramento.

Mr. Walkup introduced a bill for "an Act concerning certain fees paid by the county of Placer, which was read first and second times, and referred to the delegation from Placer.

Mr. Wilson introduced a bill for an Act authorizing Francisco De La Guerra and others to build and construct a Turnpike or Gravel Road from the Ranches of Simi, in the County of Santa Barbara, to the plain of San Fernando, in the County of Los Angeles, which was read first and second times, and referred to the Committee on Corporations.

Mr. Westmoreland, Chairman of the Committee on the State Prison, made the following report:

*Mr. President :*

The Committee on State Prison, to which was referred the memorial of Sherman Day, asking pay for services performed in surveying the State Prison grounds, as set forth in said memorial herewith returned, beg leave to report that they are satisfied of the justice of the demand, but can make no recommendation for the payment of the same.

WESTMORELAND,

Chairman.

Report accepted, and with memorial placed on calendar.

Mr. McGee gave notice that he will at an early day introduce a bill authorizing the Supervisors of Butte and Plumas Counties to issue bonds for the construction of a Wagon Road through said Counties.

Mr. Mandeville moved to reconsider the vote by which Assembly Bill No. 244, an Act to incorporate the City of Stockton, was yesterday referred to the Delegation from San Joaquin, which was carried, and the bill was then read a third time and passed.

Mr. Walkup moved to take from the table enrolled Senate Bill No. 13, an Act to limit the time for presentation of claims against Counties and for receiving payment for the same, which was carried.

Mr. Walkup then offered the following amendments:

In first section, line first, insert after the word "all" the word "unaudited."  
Add the following to section first:

"*Provided*, That nothing contained in this section shall be so construed as to prevent the presentation and auditing of any claim now due against any County in this State at any time within twelve months from the passage of this Act."

Amendments adopted, and the bill was then read a third time and passed.

Mr. Walkup moved to act upon the motion of Mr. Waite previously made, to reconsider the vote by which Assembly Bill No. 98, an Act to fix the compensation and pay of the members of the Senate and Assembly of the State of California, was passed, which was carried.

Question upon reconsideration was then put, and vote reconsidered.

Mr. Shaw moved to refer the bill to a special committee of three, with instructions to amend.

Mr. McCallum offered a substitute.

Mr. Mandeville rose to a point of order: The bill being on its third reading, the rules precluded amendments.

The Chair decided the point of order well taken.

Mr. McCallum then moved to reconsider the vote by which the bill was read a third time.

Mr. Walkup then moved as a substitute to the motion of Mr. Shaw to recommit to a special committee of three with instructions to amend the bill so as to allow members to be paid a per diem of ten dollars per day for the first fifty days, and five dollars per day for the remainder of the session, and to recommend such other amendments as they may deem necessary.

Mr. McCallum rose to a point of order, to wit: "His motion to reconsider was in order, and took precedence."

Mr. Walkup rose to a point of order, to wit: "More than a day had elapsed since the passage of the bill, and a motion to reconsider was not in order."

The Chair ruled the point of order of Mr. Walkup well taken, whereupon Mr. McCallum withdrew his substitute.

The question being upon the motion of Mr. Walkup to recommit to a special Committee of three, was put and carried.

The Chair appointed as such Committee, Messrs. McCallum, Walkup and Shaw.

Mr. McCallum introduced a bill entitled "An Act to reduce and establish per diem of members and attaches of the Legislature and the salaries of officers," which was read first and second times and referred to the Special Committee, Messrs. McCallum, Walkup and Shaw.

Mr. Carpenter offered the following resolution:

*Resolved*, That all the Senate Committees, whether standing or select, be and they are hereby severally instructed to report on or before Saturday the 28th inst.

Adopted.

The special order of the day "An Act concerning Notaries Public," was called on.

Mr. Merritt rose to a point of order, to wit: "The hour set for the special order had passed and the call therefore was not in order."

The Chair ruled the point of order not well taken.

Mr. Merritt then moved a call of the Senate, which was lost.

Mr. Mandeville moved the indefinite postponement of the bill.



Mr. McCallum rose to a point of order, to wit: "The bill had been ordered read a third time, and that reading was first in order."

The Chair ruled the point well taken.

The bill was then read a third time.

Mr. McCallum moved to refer the bill to the Judiciary Committee, with instructions to so amend the bill as to allow El Dorado county the same number of Notaries Public as are now allowed by law.

Mr. Shaw moved to add city and county of San Francisco, which was lost.

Mr. Ashley moved to insert the county of Siskiyou, which was lost.

Mr. Goodwin moved to insert Del Norte, which was lost.

The question recurring on the motion of Mr. McCallum, was put and lost.

The question recurring on Mr. Mandeville's motion to indefinitely postpone, the ayes and noes were demanded by Messrs. Taliaferro, Walkup and Westmoreland, and taken with the following result :

#### AYES.

Messrs. Carpenter, Crandall, Mandeville, Norman, Soule, Walkup and Wilson—7.

#### NOES.

Messrs. Ashley, Burnett, Bynum, Coffroth, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Johnson of El Dorado, McGee, Merritt, Mesick, Taliaferro, Waite, Westmoreland and Woodworth—17.

Messrs Bell, McCallum and Sullivan declined voting.

So the motion to indefinitely postpone was lost.

Mr. Woodworth moved to make the bill the special order for Monday next, the 29th inst., at 12 o'clock.

Pending the motion of Mr. Woodworth, the Senate took a recess for fifteen minutes, to prepare for the trial of Geo. W. Whitman, Controller of State.

The Senate re-assembled at the time appointed, and the President, *pro tem.*, announced the suspension of all Legislative and Executive business, and that the Senate was now organized as a High Court of Impeachment, for the trial of Geo. W. Whitman, Controller of State.

Whereupon, the Sergeant-at-Arms of the Senate made proclamation of the fact at the door, and the Secretary informed the Assembly, as required by the rules, that the Senate was organized as a Court, and ready to proceed with the trial of Geo. W. Whitman.

## HIGH COURT OF IMPEACHMENT.

President *pro tem.*, presiding.

Roll called, absent Messrs. Cosby, De La Guerra, and Meloney.

Counsel for respondent presented the following rejoinder of defendant, to replication of managers, to answer of defendant, which was read and placed on file.

*The rejoinder of G. W. Whitman, to the replication of the Assembly of the State of California, to his answers and pleas, to the several Articles of Impeachment exhibited against him in the Senate of said State, by the said Assembly.*

The said respondent insisting that all issues, both of law and fact, are already fully made up and ascertained by the previous pleadings herein, nevertheless, in conformity with his understanding of the views of the honorable managers, on the part of the said Assembly, as well as some of the honorable members of this Court, comes and rejoins to the said replication, and for such rejoinder says:

1st. As to the said replication to his answers and pleas to the said first, fourth and fifth, sixth and seventh articles of Impeachment, and whereof the said Assembly has taken issue, upon the truth and sufficiency of the matters, both of the law and the fact therein set up, by way of defence, he also doth the like.

2d. As to the said replication to the said answers, and pleas to the said second and third articles of Impeachment, he says, that the charges made and preferred in and by the said last mentioned articles, are by the said last mentioned answers and pleas, specially and fully denied, and also avoided, and that said last mentioned charges are not admitted or made good, in manner and form, as is in the said replication set forth.

3d. And for a further rejoinder to the said replication, the respondent says, that he is not guilty of the misdemeanors, or any of them, charged and preferred against him in said replication, and that each and every fact, matter, and thing therein avowed and set forth against him, other than such as he has in his answer herein confessed and admitted, are wholly false and untrue. Wherefore, the respondent prays, as he has hereinbefore prayed, that he may herein be discharged.

EDWARDS, WHITMAN & PERLEY,

Of counsel for Respondent.

Counsel for the defendant and the managers being ready for trial, by order of the presiding officer, the witnesses on the part of the State were called.

David F. Douglass, Esq., Secretary of State, appeared, and was duly sworn by the Secretary of the Senate, in accordance with the rules of the court.

Previous to the examination of Mr. Douglass, Mr. Bell offered the following order, which was adopted without objection:

Ordered, that the official Reporter of the Senate be instructed to take down the evidence of the witnesses.

Mr. Douglass was then examined and cross-examined, and at the conclusion of his testimony—

E. G. Vaughan, Clerk in the Controller's office, was duly sworn, examined, and cross-examined.

During the progress of the examination of this witness, by direction of the Court, the books of the Controller, and the Treasurer's Report for the month of April, 1856, were brought into Court.

On motion of Mr. Woodworth, the Court adjourned until 12 o'clock to-morrow.

#### IN SENATE.

On motion of Mr. Mandeville, the Senate adjourned.

Approved March 25th, 1857.

R. M. ANDERSON,  
President Senate.

Attest:

GEO. S. EVANS, Secretary Senate.

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#### IN SENATE.

WEDNESDAY, March 25, 1857.

Senate met pursuant to adjournment.

The President in the chair.

Roll called.

Journal of yesterday read and approved.

Mr. Merritt presented the remonstrance of citizens of Mariposa county, relative to the salary of their County Judge.

Read and referred to Delegation from Mariposa.

Mr. Ashley presented the petition of citizens of Monterey, praying for the right to construct a wharf.

Read and referred to Committee on Commerce and Navigation.

Mr. Woodworth presented the remonstrance of citizens of San Francisco, relative to the passage of a Sunday Law.

Read and referred to the Judiciary Committee.

Mr. Merritt in the chair.

Mr. Carpenter, Chairman of the Committee on Commerce and Navigation, made the following report:

*Mr. President:*

The Committee on Commerce and Navigation, to whom was referred Assembly Bill No. 27, an Act to authorize certain parties to construct a wharf in Solano County, have had the same under consideration, and ask leave to report it back, without amendment, and recommend its passage.

G. J. CARPENTER,  
Chairman.

Report accepted and with the bill placed on the calendar.

Mr. Ashley, of the Committee on Agriculture, made the following report:

*Mr. President:*

The Committee on Agriculture have considered Assembly Bill No. 265, an Act to amend an Act concerning Marks and Brands, passed May 1st, 1851, and recommend its passage, without amendment.

D. R. ASHLEY,  
Of the Committee.

Report accepted, and with the bill placed on the calendar.

Mr. Ashley, Chairman of the Judiciary Committee, made the following report:

*Mr. President:*

The Judiciary Committee have examined Senate Bill No. 136, an Act amendatory of and supplementary to an Act for the Protection of Game, passed May 13th, 1854, and recommend that the first section be stricken out, and that the Act so amended be passed.

D. R. ASHLEY,  
Chairman.

Report accepted, and with bill, placed on calendar.

Mr. Ashley, Chairman of the Judiciary Committee, made the following report:

*Mr. President:*

The Judiciary Committee, to whom was referred Assembly Bill No. 213, an Act to abolish the Superior Court of the city of San Francisco, report that they have considered the same, and recommend its passage, after adopting the amendments herewith submitted.

D. R. ASHLEY,  
Chairman.

Amend by striking out section 9 (nine.)

Amend section 14 by striking out the words "said last mentioned Act," in line 1st, and insert in place thereof, the following: "The Act entitled an Act concerning the Courts of Justice in this State and Judicial Officers, approved May 19th, 1853."



Strike out section 13 (thirteen.)

In place of section 9 insert as follows:

Section 9. Any action or proceeding by this Act transferred from said Superior Court to said Fourth District Court, may be transferred from said Fourth District Court to another District Court for the same reasons, and in like manner and with the same effect as if originally commenced in said District Court of the Fourth Judicial District; and such transfer may also be made upon the written request of all the parties to such action or proceeding, or of their attorneys therein, without any special cause or reason except the wish of the parties being assigned therefor.

Report accepted, and with bill, placed on calendar.

Mr. Ashley, Chairman of the Committee on the Judiciary, made the following report:

*Mr. President :*

The Judiciary Committee, to whom was referred Senate Bill No. 67, an Act to authorize Samuel Plomer Semper to be admitted to practice as attorney and counsellor-at-law, have had the same under consideration, and beg leave to offer the accompanying substitute for said bill, and recommend the adoption of the substitute.

Also, Senate Bill No. 168, an Act to allow the Mayor and Council of Sacramento to bridge the Sacramento River, and recommend its passage.

Also, Assembly Bill No. 238, an Act to amend an Act to regulate proceedings in Criminal Cases, passed May 1st, 1851, and recommend its passage with the following amendment:

Section six, line nine, strike out the words "twenty days for every hundred dollars" and insert "one day for every two dollars."

The Committee recommend a substitute for Senate Bill No. 158.

D. R. ASHLEY,  
Chairman.

Report accepted, and with bills, placed on calendar.

The following messages were received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly on yesterday concurred in Senate amendments to Assembly Bill No. 25, an Act to provide for funding the Indebtedness of the county of Yuba.

Also, concurred in Senate amendment to Assembly Bill No. 291, an Act amendatory of an Act entitled "an Act to amend an Act to provide Revenue for the Support of the Government of this State, passed May 1854, approved April 27th, 1855.

Also, have appointed Messrs. Burch, Swezy and Jessup, a Committee of Free Conference on the part of the House, upon the disagreeing vote of the two Houses upon Assembly amendments to Senate Bill No. 20, An Act concerning persons under sentence of imprisonment.

J. W. SCOPY,  
Assistant Clerk.

March 24, 1857.

*Mr. President :*

I am directed to inform the Senate that the Assembly have this day passed Assembly Bill No. 245, An Act amendatory of and supplemental to an Act entitled An Act to provide for the protection of Foreigners, and to define their liabilities and privileges, approved March 30, 1853.

J. W. SCOPY,  
Assistant Clerk.

March 24, 1857.

Assembly Bill No. 245 was read first and second times and referred to Committee on Mines and Mining interests.

The following message was received from the Assembly:

*Mr. President :*

I am directed to inform the Senate that the Assembly, on yesterday, passed Senate Bill No. 133, An Act concerning the Revenue of Calaveras County, with amendments, and ask the concurrence of the Senate in the same.

Also, Senate Bill No. 175, An Act concerning the official bonds of Justices of the Peace in the First Judicial District.

Also, passed the following Assembly Bills:

No. 157, An Act to authorize the Governor to remove Insane Persons from the State Prison to the State Insane Asylum.

No. 296, An Act to authorize the Board of Supervisors of Los Angeles County to levy an additional tax to pay for a Court House in said county, and for other county purposes.

No. 252, An Act restricting the herding of sheep to certain pasturage, in the County of Sonoma.

No. 282, An Act to authorize the Board of Supervisors of Contra Costa County to pay the current expenses of said county.

Also, Assembly Concurrent Resolution relative to a certain mail route in El Dorado County and ask the concurrence of the Senate.

Also, Assembly Joint Resolution No. 6, asking Congress to donate to the counties in this State, which have not nor will not be surveyed, the amount of lands to which said counties would be entitled for school purposes had the surveys been made.

W. CAMPBELL,  
Clerk of Assembly.

March 25, 1857.

Senate Bill No. 133, with amendments, Assembly amendments concurred in.

Assembly Bill No. 157, was read first and second times.

Mr. Taliaferro moved that the Bill be referred to the Judiciary Committee, which was lost.

Mr. Shaw moved that the bill be referred to the Hospital Committee, which was carried.

Assembly Bill No. 296, was read first and second times and referred to the delegation from Los Angeles.

Assembly Bill, No. 252, was read first and second times and referred to the delegation from Sonoma.

Assembly Bill No. 282, was read first and second times and referred to the delegation from Contra Costa.

Assembly Concurrent Resolution, was read and referred to delegation from El Dorado.

Assembly Joint Resolution, No. 6, was read a first and second times and referred to the Committee on Public Lands.

Mr. Goodwin presented An Act to prohibit Gaming, which was read first and second times and referred to the Judiciary Committee.

On motion of Mr. Mandeville, Assembly Bill No. 158, was taken from the table and placed on the calendar.

Mr. Goodwin gave notice that, at an early day, he will introduce a bill to grant the right of way across the Feather River.

On motion of Mr. Walkup, Assembly Bill No. 254, an Act concerning delinquent taxes in certain counties of this State, was taken from the table, and the amendments of the Committee of Free Conference, reported on the 21st instant, read and concurred in.

The bill was then read a third time and passed.

On motion of Mr. Shaw, Senate Bill No. 173, an Act to provide revenue for the support of the Government of this State, was taken from the table.

Mr. Shaw moved to make the bill the special order of the day for Thursday next, 26th instant, at 11 o'clock.

Mr. Coffroth moved to refer the bill to the Finance Committee.

Mr. Walkup moved to amend by adding: "With instructions to report on Friday next, the 27th instant."

Adopted.

The question being upon the adoption of the motion of Mr. Coffroth, as amended, was put and carried.

The hour having arrived for the consideration of the special order of the day:

Senate Bill No. 159, an Act to amend an Act entitled an Act to regulate elections, passed March 23d, 1850, was taken up.

Mr. Shaw moved that the bill be indefinitely postponed.

Put and announced by the Chair as carried.

Mr. McCallum called for a division, and moved to make the bill the special order of the day for Monday next.

The Chair ruled that no motion could be entertained, except a call for a division—the Chair having announced the bill as indefinitely postponed.

A division being taken on the motion to indefinitely postpone, was decided in the affirmative.

So the bill was indefinitely postponed.

On motion of Mr. Shaw, Senate Bill No. 66, an Act supplemental to an Act to provide for funding the legal and equitable debt of the City of San Francisco, and for the final redemption of the same, approved May 7th, 1855, was taken from the table.

Referred to the San Francisco Delegation.

On motion of Mr. Mandeville, Senate Bill No. 125, an Act to appropriate three millions two hundred and thirty-nine thousand four hundred and eighty-eight dollars, to pay certain outstanding claims against the State; and Senate Bill No. 53, an Act to legalize the present indebtedness of the State of California and to provide for its payment,—were made the special order of the day for Saturday next, the 28th inst., at half-past 10 o'clock.

Mr. Coffroth presented the account of Mr. F. Foley, for provisions supplied the State Prison.

Referred to the Committee on Claims.

#### GENERAL FILE.

Senate Bill No. 177, an Act concerning roads and highways, being a substitute for Senate Bills Nos. 46 and 89, was, on motion, made the special order of the day for to-morrow, the 26th instant, at 11 o'clock.

Assembly Bill No. 231, an Act to provide for the erection of a jail in San Bernardino county, was read a third time and passed.

The memorial of Sherman Day, praying for relief, was, on motion, laid on the table.

Assembly Bill No. 27, an Act to authorize certain parties to construct a wharf in the County of Solano, was read a third time.

On motion of Mr. Walkup, referred to the Committee on Commerce and Navigation, with instructions to amend "so as to require 40 feet on each side of said wharf to remain open to all parties desiring to use the same."

Assembly bill No. 265, "An Act to amend an Act concerning Marks and Brands," was read third time and passed.

Senate bill No. 136, "An Act amendatory of, and supplementary to an Act,



for the protection of Game," amendments of Judiciary Committee concurred in, and on motion, bill ordered engrossed and read a third time.

Assembly bill No. 213, "An Act to abolish the Superior Court of the City of San Francisco, and to provide for the transfer of its records, books, papers, actions, and other matters therein, and for the preservation of the rights and interests of parties," amendments of Judiciary Committee concurred in, and bill read a third time and passed.

Senate substitute for Senate bill No. 158, "An Act to repeal an Act in addition and explanatory of an Act for securiug liens to Mechanics and others," (approved April 19th, 1856—approved March 4th, 1857,) was read twice and adopted.

On motion of Mr. Shaw, the rules were suspended, bill considered engrossed, read a third time and passed.

Senate bill No. 67, "An Act to authorize Samuel Plomer Semper, to be admitted to practice as an Attorney and Counsellor at law," with substitute reported by the Judiciary Committee, was considered—substitute read first and second times and adopted.

Mr. Shaw moved to amend, by adding after the words "United States," the words "as prescribed by law," which was adopted. The bill was then ordered to be engrossed and read a third time.

On motion of Mr. Dosh, the Senate took a recess of fifteen minutes.

The Senate re-assembled at the time appointed.

The President in the chair.

Roll called. Absent, Senators De La Guerra and Melony.

The President announced the suspension of all Executive and Legislative business, and that the Senate was organized as a High Court of Impeachment, for the trial of George W. Whitman, Controller of State.

Whereupon, the Secretary of the Senate notified the Assembly of the organization of the Court of Impeachment, and the Sergeant-at Arms made proclamation of the same at the door of the Senate, in accordance with the rules.

Counsel for the defendant and the managers being ready for trial, Mr. Bell offered the following order, which was adopted, there being no objection:

*Ordered,* That the Reporter be instructed to write out the testimony in full, consisting of question and answer, the manuscript being for the use of the Senate, managers and respondent's counsel.

By request of the managers, the list of witnesses was called at the door of the Senate, and attachments ordered against absentees.

Mr. Carpenter offered the following order, which was adopted, there being no objection:

*Ordered,* That the managers and counsel for defendant furnish the Sergeant-

at-Arms the names of all the witnesses in this case now in San Francisco, and that they be telegraphed to appear in this Court to testify on to-morrow.

Mr. Woodworth offered the following order:

*Ordered*, That the examination of witnesses who are now present in Court be proceeded with.

Adopted by the following vote:

**AYES.**

Messrs. Ashley, Bell, Bynum, Carpenter, Chase, Coffroth, Cosby, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Goodwin, Johnson of Sacramento, Johnson of El Dorado, McCallum, Mesick, Norman, Shaw, Soule, Taliaferro, Waite, Westmoreland, Wilson and Woodworth—23.

**NOES.**

Messrs. Burnett, Crandall, Fiske, Mandeville, McGee, Merritt and Walkup—7.

His Excellency, J. Neely Johnson, was then called on the part of the State, duly sworn by the Secretary of the Senate, and examined and cross-examined.

Mr. Carpenter moved that the Court adjourned until 12 o'clock M. to-morrow, March 26th, which was carried by the following vote:

**AYES.**

Messrs. Bell, Burnett, Carpenter, Chase, Crandall, Dosh, Ferguson of Sierra, Fiske, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, McGee and Taliaferro—14.

**NOES.**

Messrs. Coffroth, Goodwin, Merritt, Shaw, Soule, Waite, Walkup and Wilson—8.

**IN SENATE.**

Mr. Merritt moved to reconsider the vote by which the Senate indefinitely postponed Assembly Bill No. 234, an Act explanatory of an Act to reduce and establish the Salaries of Officers and Pay of Members of the Legislature.

Mr. McCallum rose to a point of order: A motion to reconsider was not in order except by a suspension of the rules, that order of business having passed.

The Chair ruled the point of order well taken.

Mr. Merritt then moved a suspension of the rules that he might move a reconsideration of the bill.

Mr. Coffroth rose to a point of order, and read rule 19th: "A motion for reconsideration shall take precedence of all other questions, except a motion to adjourn."

The Chair ruled the point of order well taken, upon which Mr. Merritt withdrew his motion to suspend the rules and renewed his motion to reconsider.

Mr. McCallum again rose to a point of order: "The bill having been reported from the Senate to the Assembly was out of the possession of the Senate, and a motion to reconsider could not be entertained.

The Chair ruled the point of order well taken.

On motion, the Senate adjourned.

Approved.

R. M. ANDERSON,  
President of the Senate.

Attest:

GEO. S. EVANS, Secretary Senate.

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### IN SENATE.

THURSDAY, March 26th, 1857.

Senate met pursuant to adjournment.

President in the chair.

Roll called.

Journals of yesterday read and approved.

Mr. Melony, Chairman of the Committee on Engrossed Bills, made the following report:

*Mr. President:*

The Committee on Engrossed Bills, have examined Senate bill No. 8, entitled "An Act to legalize certain conveyances."

Senate bill No. 169, entitled "An Act to amend an Act to create a Board of Supervisors in the Counties of this State, and to define their duties and powers."

Also, Senate bill No. 178, entitled "An Act amendatory and supplementary to an Act to establish an Asylum for the Insane of the State of California," passed May 17th, 1853, and find the same correctly engrossed.

A. R. MELONY,  
Chairman.

March 26, 1856.

Mr. Burnett, Chairman of the Committee on Elections, made the following report:

*Mr. President:*

The Committee on Elections have had Senate bill, No. 61, "An Act to

divide the State into Congressional Districts, according to an Act of Congress, approved June 25th, 1842, under consideration, and respectfully report the same back, and recommend its passage.

W. C. BURNETT,

Chairman.

Report accepted, and with bill placed on calendar.

Mr. Waite, Chairman of the Committee of Corporations, made the following report:

*Mr. President :*

The Committee on Corporations, report a substitute for Assembly bill No. 223, "An Act supplementary to an Act relating to Corporations, and recommend its passage.

E. H. WAITE,

Chairman.

Report accepted, and with bill placed on calendar.

Mr. Waite, Chairman of the Committee on Corporations, made the following report:

*Mr. President :*

The Committee on Corporations report in favor of the passage of Assembly bill No. 278, "An Act to amend an Act entitled an Act, to provide for the formation of Corporations for certain purposes," passed April 14th, 1853, with amendments proposed.

E. H. WAITE,

Chairman.

Amendments to bill No. 278. After "1853," in 3d line, insert "as amended by an Act approved April 30th, 1855."

Insert after "mechanical," end of 5th line, "wharfing and dockage."

Amend title to bill by adding, "as amended by an Act approved April 30th, 1855."

Report accepted, and with bill placed on calendar.

Mr. Waite, Chairman of the Committee on Corporations, made the following report:

*Mr. President :*

The Committee on Corporations, report in favor of the passage of the following bills:

Assembly Bill No. 290, An Act supplementary to an Act entitled An Act to provide for the Incorporation of Railroad Companies, passed April 22d, 1853, and to the several Acts amendatory thereto.

Senate Bill, No. 181, An Act authorizing Francisco De la Guerra and others to build and construct a turnpike and gravel Road from the rancho of Sima, in the County of Santa Barbara, to the plain of San Fernando, in the County of Los Angeles.



Assembly Bill No. 211, An Act to authorize the Trustees of the Town of Eureka, in Humboldt County, to dispose of the proceeds arising from the sale of town lots in said town.

The Committee also recommend the indefinite postponement of Senate Bill No. 127, An Act to amend an Act entitled An Act to provide for the Incorporation of Railroad Companies.

E. G. WAITE,  
Chairman.

Report accepted, and with Bills placed on calendar.

Mr. Merritt made the following report:

*Mr. President :*

The undersigned Committee, to whom was referred Assembly Bill No. 224, An Act to authorize the Supervisors of Fresno County to levy a special tax, beg leave to report the same back to the Senate and recommend its passage, with the following amendment, viz.:

Amend section first by inserting in line fifth of section first between the words "taxes" and "the" the following words, "and in addition thereto."

All of which is respectfully submitted.

MERRITT.

Report accepted and on motion of Mr. Merritt, the rules were suspended and bill considered, amendments of Committee concurred in, bill read a third time and passed.

Mr. Wilson made the following report:

*Mr. President:*

The Special Committee to whom was referred Assembly Bill No. 296, an Act to authorize the Board of Supervisors of Los Angeles County to levy an additional tax to pay for a Court House in said county, and for other county purposes, have had the same under consideration and beg leave to return the same back to the Senate without an amendment, and recommend its passage.

B. D. WILSON,  
Of Committee.

Report accepted, and on motion of Mr. Wilson the rules were suspended, bill considered, read a third time and passed.

Mr. Walkup made the following report:

*Mr. President:*

The Select Committee to whom was referred Assembly Bill No. 98, An Act to fix the compensation and pay of Members of the Senate and Assembly of the State of California.

Also, An Act to reduce and establish the per diem of members, officers and attaches of the Legislature, and the salaries of officers, have had the same under consideration and recommend that the last mentioned bill be adopted as a substitute for the first and passed.

JOS. WALKUP,  
J. G. McCALLUM,  
WM. J. SHAW.

Report accepted, and with bills placed on calendar.

Mr. Johnson, of Sacramento, made the following report:

*Mr. President :*

The Joint Committee of Free Conference, to whom was referred Senate Bill No. 20, An Act concerning persons under sentence of Imprisonment, beg leave to report, that they have had the same under consideration and have returned the bill to the House, recommending them to recede from their amendments.

JOSIAH JOHNSON,

Chairman.

On motion of Mr. Ashley, the report was adopted.

Mr. Walkup made the following report :

*Mr. President :*

The undersigned, from the Committee to whom was referred Senate bill No. 180, report the same back, and recommend its passage, without amendment.

JOS. WALKUP.

Mr. Mandeville made a verbal report upon Assembly bill No. 262, an Act making orders and warrants drawn on the County Treasurer of Stanislaus County, and payable out of the county revenue, receivable for county dues and taxes in said county, recommending its passage.

Report accepted and bill placed on calendar.

Mr. Melony made the following report :

*Mr. President :*

Your Committee, to whom was referred Assembly bill No. 256, entitled an Act to authorize the Board of Supervisors of San Joaquin County to appropriate Money, have had the same under consideration, and beg leave to report the same back to the Senate, and recommend its passage.

A. R. MELONY.

Report accepted, and, with bill, placed on calendar.

The following message was received from the Governor :

EXECUTIVE DEPARTMENT,  
Sacramento, March 25th, 1857. }

*To the Senate of California :*

I have this day approved the following Acts :

An Act to fix the time of holding the Courts of Sessions and the County Court of Sacramento County.

Also, an Act to authorize the Executor or Administrator of the Estate of

Josefa Soto de Stokes, deceased, to sell the real estate of said deceased at public or private sale.

Also, an Act to regulate the Fire Department of the City and County of San Francisco.

Also, an Act to enforce more effectually the attendance of witnesses on the summons of either House of the Legislature of this State, and to compel them to discover testimony.

Also, an Act to amend an Act entitled an Act to organize the County of Plumas, passed March 18th, 1854.

J. NEELY JOHNSON.

The following messages were received from the Assembly :

*Mr. President :*

The Assembly have this day adopted the report of Committee of Free Conference on Senate bill No. 20, an Act concerning persons under Sentence of Imprisonment.

J. W. SCOBEEY,

March 25, 1857.

Assistant Clerk.

*Mr. President :*

I am directed to inform the Senate that the Assembly on the 18th instant passed Assembly bill No. 285, an Act amendatory and supplementary to an Act entitled an Act to incorporate the City of Marysville, approved March 3, 1857.

Also, Assembly Bill No. 233, An Act to separate the office of County Recorder from the office of County Clerk in the County of Butte.

The Assembly on to-day concurred in Senate amendments to Senate enrolled bill, an Act to limit the presentation of claims against counties, and for securing payment for the same.

W. CAMPBELL,

March 25, 1857.

Clerk Assembly.

Assembly Bill No. 285, was read first and second times and referred to the Yuba Delegation.

Assembly Bill No. 233 was read a first and second times, and on motion of Mr. McGee, the rules were suspended, bill read third time, and passed.

The following message was received from the Assembly :

*Mr. President :*

The Assembly, on the 19th inst., passed Assembly Bill No. 58, an Act to authorize the County of Tuolumne to fund the outstanding warrants drawn against the Hospital Fund of said county, to provide for the payment of the same, and to repeal an Act entitled an Act to authorize the Court of Sessions of the County of Tuolumne to levy and collect a special tax for the support and maintenance of the indigent sick of said county, passed April 13, 1854.

Also, on the 20th inst., passed Assembly Bill No. 277, an Act to amend an Act entitled an Act dividing the State into counties and establishing the Seats of Justice therein, passed April 25th, 1851.

And Assembly Bill No. 293, an Act fixing the time of holding the Courts of Sessions, County Courts and Probate Courts, in the Counties of Siskiyou and Colusi.

J. W. SCOBAY,

March 25, 1857.

Assistant Clerk.

Assembly Bill No. 58, was read first and second times and referred to the delegation from Tuolumne.

Assembly Bill No. 293, was read first and second times and referred to the delegation from Siskiyou.

Assembly Bill No. 277, was read first and second times and referred to the delegation from Sacramento.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly have this day adopted a resolution appointing a joint committee to examine and audit claims against the State, etc., have appointed Messrs. Moore, Watkins and Clark, said committee on the part of the House, and ask the concurrence and the appointment of a similar committee on the part of the Senate.

J. W. SCOBAY,

March 25, 1857.

Assistant Clerk.

Resolution read and on motion of Mr. Walkup, referred to a special committee of seven.

The Chair appointed as such committee Messrs. Walkup, Burnett, Fiske, Coffroth, Mandeville, Norman and McCallum.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly on yesterday, passed the following Assembly Bills.

No. 236, an Act to regulate fees in office in certain counties in this State.

Assembly Bill No. 203, an Act to provide for the collection of Delinquent Taxes, and to legalize the Assessment of the county of Calaveras.

Assembly Bill No. 97, an Act amendatory and supplementary to an Act concerning Divorces, passed March 25th, 1851.

Assembly Bill No. 249, an Act supplementary to an Act to create a Board of Supervisors in the Counties of this State, and to define their duties and powers, passed March 20th, 1855.

Assembly Bill No. 191, an Act to provide for the publication of the General Laws of this State in force at the expiration of the eighth session of the Legislature.

Assembly Bill No. 284, an Act to authorize Samuel A. Bishop, or his assigns to collect tolls on a road in Los Angeles County, and Senate substitute to Ser



ate Bill No. 17, an Act amendatory of and supplementary to an Act entitled an Act to create the office of State Printer, and define the duties and compensation thereof, and to provide for the time and manner of election, passed May 1st, 1854.

W. CAMPBELL,

March 26th, 1857.

Clerk of Assembly.

Mr. Coffroth in the chair.

Assembly Bill No. 236 was read first and second times, and on motion of Mr. Mandeville, referred to the Committee on Claims.

Assembly Bill No. 203 was read first and second times.

On motion of Mr. Norman, the rules were suspended, the bill considered, read a third time and passed.

Assembly Bill No. 97, was read first and second times and referred to the Judiciary Committee.

Assembly Bill No. 249 was read first and second times and referred to the Judiciary Committee.

Assembly Bill No. 197 was read first and second times and referred to the Judiciary Committee.

Assembly Bill No. 284 was read first and second times and referred to Delegation from Los Angeles.

On motion of Mr. Mandeville, the rules were suspended and Assembly Bill No. 158, an Act to amend the 6th section of an Act to provide for the erection of a Jail in the county of Tuolumne, passed April 1856, was taken from the file and considered, and the Senate receded from the amendment, the Assembly having refused to concur.

On motion of Mr. Cosby, Senate Bill No. 130, an Act to preserve the sanctity of Private Reputation, and the more effectually to prevent Breaches of the Peace, was taken from the table and placed on the file.

The hour of eleven having arrived, the special orders were considered, first in order being Senate Bill No. 155, an Act relating to and fixing the residence of the County Judge of the county of El Dorado.

On motion, the rules were suspended, the bill considered engrossed, read a third time and passed.

The next in order being Senate substitute No. 177 to Senate Bills 46 and 89, an Act concerning Roads and Highways, was considered.

On motion, the substitute was adopted and considered in Committee of the Whole.

Pending which the hour having arrived for the Senate to organize as a Court, the Committee rose and reported progress.

In Senate. On motion of Mr. Chase, the Senate took a recess for five minutes.

The recess having expired, the Senate re-assembled.

The President in the chair.

Roll called. Absent, Messrs. De La Guerra and Melony.

The President announced that all Legislative and Executive business was suspended, and that the Senate was now organized as a High Court of Impeachment, for the trial of George W. Whitman, Controller of State.

Whereupon, the Secretary of the Senate notified the Assembly of the organization of the Senate as a Court of Impeachment, and the Sergeant-at-Arms made proclamation of the same at the door of the Senate, in accordance with the rules.

Counsel for defendant and the managers, being ready for trial—

N. A. H. Ball, was called on the part of the State, duly sworn by the Secretary of the Senate, and examined and cross-examined.

Mr. William Norris was next called on the part of the State.

Counsel on the part of the defendant, objected to an examination of Mr. Norris, on the ground that what was proposed to be proven had been admitted in defendant's answer.

The President decided, that the counsel for defendant having qualified their answer, if no objection was made by the court, witness would be sworn and examined.

Mr. Norris was then duly sworn by the Secretary of the Senate, examined and cross-examined.

Mr. E. F. Burton was called on the part of the State, duly sworn by the Secretary of the Senate, examined and cross-examined.

Mr. McCallum presiding.

Counsel for respondent here agreed to accepted copy of order drawn by Gen. Estell, on Geo. W. Whitman, as evidence instead of the original.

J. W. English, Secretary of the Treasury, was called on the part of the State, duly sworn by the Secretary of the Senate, examined and cross-examined.

Mr. Edw. G. Vaughn was recalled, and examined and cross-examined.

Mr. Carpenter offered the following order:

*Ordered*, that the authorization papers and stubble book of the Treasurer and Controller's offices, now in court, be retained until the close of the trial, which was adopted, there being no objection.

The court directed E. H. Barton, acting Controller of State, to retain in his custody the papers and book referred to.

S. D. Wells, was called on the part of the State, duly sworn by the Secretary of the Senate, examined and cross-examined.

F. M. Reid was called on the part of the State, duly sworn by the Secretary of the Senate, examined and cross-examined.

Mr. Hall, of the Managers, submitted the following affidavit:

STATE OF CALIFORNIA, }  
Sacramento. }

G. D. Hall, Chairman of the Committee of Managers, on the part of the Assembly, in the impeachment of G. W. Whitman before the Senate of California, being duly sworn, deposes and says: That E. A. Rowe, who he is informed and believes to be confined in the common jail of the County of Sacramento, is a material witness on behalf of the Assembly and State, in the trial of said cause; that it is believed that by said Rowe can be proved the complicity of Whitman with W. S. Hughson, a Clerk in the Controller's Office, in the substitution of Controller's Warrants for cash, in the settlement of County Treasurers made with the State authorities; and that by said Rowe, facts going to establish Articles 5th and 6th of Impeachment against said G. W. Whitman, can be shown.

G. D. HALL.

Subscribed and sworn to before me, this 26th March, 1857.

GEO. S. EVANS,  
Secretary Senate.

Whereupon, the Court entered the following order:

*The People of the State of California v. George W. Whitman, Controller of State. Impeachment, before the Senate of California.*

It appearing to the satisfaction of the Court, by the affidavit of the Hon. G. D. Hall, one of the managers in said cause, that the testimony of one E. A. Rowe, imprisoned in the common jail of Sacramento County, is material in the trial of said cause: It is, therefore,

*Ordered,* That a writ be issued, directed to the Sheriff of Sacramento County, commanding said Sheriff to produce said E. A. Rowe before this Court, in the Senate Chamber, at 12 o'clock, M., on Friday, March 27th, A. D. 1857, for the purpose of giving his testimony in said cause.

B. M. Fetter was called on the part of the State, duly sworn by the Secretary of the Senate, and was examined and cross-examined.

D. Maddux was called on the part of the State, duly sworn by the Secretary of the Senate, and was examined and cross-examined.

The following question, propounded on the part of the managers—"Had you any understanding with Hughson in regard to a substitution of warrants for cash, provided you settled through McNiel?—if so, what was that understanding?"—being objected to, on the part of the defense, the question on its admissibility was taken and decided by the following vote:

AYES.

Messrs. Burnett, Carpenter, Crandall, Dosh, Johnson of El Dorado, Mandeville, McCallum, McGee, Merritt, Norman, Soule, Walkup, Wilson and Woodworth—14.

NOES.

Messrs. Bell, Bynum, Chase, Coffroth, Ferguson of Sierra, Goodwin, Mesick and Waite—8.

Mr. Shaw declined voting.

On motion, the Court adjourned until to-morrow at 12 o'clock, M.

IN SENATE.

On motion of Mr. Coffroth, the rules were suspended and Assembly Bill No. 230, an Act supplementary to an Act entitled an Act to provide for the incorporation of Railroad Companies, passed April 22d, 1853, and to the several Acts amendatory thereto,—was taken up and considered.

Mr. Norman moved that the Senate adjourn.

Lost.

On motion, the bill was made the special order for to-morrow, the 27th inst., at 10½ o'clock, A. M.

On motion of Mr. Merritt, the Senate adjourned.

Approved March 27th, 1857.

R. M. ANDERSON,  
President of the Senate.

Attest:

GEO. S. EVANS, Secretary Senate.

IN SENATE.

FRIDAY, March 27th, 1857.

Senate met pursuant to adjournment.

The President in the Chair.

Roll called.

Journals of yesterday read and approved.



Mr. Coffroth presented the petition of citizens of Columbia, praying for the incorporation of the town, together with bill for an Act to incorporate the Town of Columbia, in the County of Tuolumne, which was read first and second times, and, with petition, referred to the Tuolumne Delegation.

Mr Soule presented the petition of citizens of San Francisco, praying for alterations in the incorporation laws, together with bill for an Act supplementary to and explanatory of an Act entitled an Act to further extend the Act concerning Corporations, passed April 22d, 1850, passed February 23d, 1857.

Bill read first and second times and referred to the Judiciary Committee.

Mr. Soule, of the Committee on Commerce and Navigation, made the following report :

*Mr. President :*

The Committee on Commerce and Navigation, to whom was recommitted Assembly bill No. 27, an Act to authorize certain parties to construct a Wharf in the County of Solano, with special instructions, report : That they have examined the same, and recommend the following proviso be added to the third section, which they believe will substantially comply with said instructions :

*Provided*, That said strips of land, on each side of said wharf, shall be kept open and unobstructed, for the purpose of free ingress and egress to and from said wharf.

S. SOULE,  
For the Committee.

Report accepted, and, with bill, placed on calendar.

Mr. Crandall, Chairman of Committee on Enrollment, made the following report :

*Mr. President :*

The Committee on Enrolled Bills have examined and found correctly enrolled, an Act recommending to the electors to vote for or against a Convention to revise and change the Constitution of this State.

Also, an Act concerning the official bonds of Justices of the Peace in the first Judicial District.

Also, an Act to amend an Act entitled an Act concerning the office of County Treasurer, passed March 27th, 1850.

Also, an Act supplementary to an Act entitled an Act concerning the Board of Supervisors of Placer County, approved April 4th, 1857, and to extend its provisions to other counties herein named.

Also, an Act to establish the County Seat of Tehama County.

D. CRANDALL,  
Chairman.

Mr. Melony, Chairman of Committee on Engrossment, made the following report :

*Mr. President :*

The Committee on Engrossed Bills have examined Senate bill No. 67, entitled

an Act to amend an Act entitled an Act concerning Attorneys and Counsellors at Law, passed Feb. 19th, 1851. Also, Senate bill No. 136, an Act amendatory of and supplementary to an Act for the Protection of Game," passed May 13th, 1854—and find the same correctly engrossed.

A. R. MELONY,  
Chairman.

March 27, 1857.

Mr. Taliaferro, Chairman of the Committee on Hospitals, made the following report:

*Mr. President :*

Your Committee on Hospitals, to whom was referred Assembly Bill No. 157, concerning Insane Convicts, beg leave to report it back with certain amendments, and recommend its passage.

Your Committee have been induced to make these amendments for the reason that the District Judge lives at a great distance from the county in which the State Prison is located, and being but seldom in that county the administration of the provisions of this bill would be greatly impeded without this amendment.

They further amend from the fact that they are unwilling to trust to the County Judge and one physician, the decision of a case of insanity. Insanity is a disease that is often feigned by convicts, and so well feigned that it requires the nicest medical discrimination to detect it. They are therefore disposed to throw as many safeguards as possible around these cases.

All of which is respectfully submitted.

ALFRED W. TALIAFERRO,  
Chairman.

Amend section first by striking out "district" wherever it occurs and insert "county."

Also strike out "in the opinion of the Court," and insert "said Judge shall summon two competent physicians to examine the alleged case of insanity, and if, in their opinion." Also, strike out "the Physician" where it occurs in the sentence "the statement of the physician," and insert "said physicians."

Report accepted and with bill placed on the Calendar.

Mr. Johnson of Sacramento, Chairman of the Committee on Finance, asked and obtained further time to report.

Mr. Coffroth, Chairman of the Committee on Public Lands, made the following report:

*Mr. President:*

The Committee on Public Lands, to whom was referred a joint resolution asking Congress to donate to the counties in this State which has not, nor will not, be surveyed, the amount of lands to which such counties would be entitled for school purposes had the surveys been made, have had the same under consideration and recommend its passage.

JAS. W. COFFROTH,  
Chairman.

Reports accepted and with resolutions placed on Calendar.

Mr. Coffroth, Chairman of Committee on Public Lands, made the following report:

*Mr. President :*

The Committee on Public Lands, to whom was referred Senate Bill No. 106, an Act to provide for issuing patents to locators of land warrants, have had the same under consideration and recommend its indefinite postponement.

They have also considered Assembly Bill No. 69, an Act amendatory and supplemental to an Act entitled an Act to provide for the disposal of the 500,000 acres of land granted to this State by an Act of Congress, passed May 3d, 1852, and recommend its indefinite postponement.

They have likewise had under consideration Senate Bill No. 163, with a similar title, and recommend its passage.

JAS. W. COFFROTH,  
Chairman.

Report accepted, and on motion of Mr. Coffroth, bills made the special order of the day for Tuesday next, the 31st inst, at 11 o'clock.

Mr. Dosh, Chairman of the Committee on Military Affairs, to whom was referred Assembly Bill No. 143, entitled an Act to amend an Act entitled an Act to aid the officers of the Indian Department, approved by the General Government for the State of California, in the discharge of their duties, approved April 21, 1856, beg leave to report the same back to the Senate for their consideration.

S. H. DOSH,  
Chairman.

Report accepted and with bill placed on calendar.

Mr. Norman made a verbal report relative to Assembly Bill No. 245, and recommended its passage—an Act amendatory of, and supplemental to, an Act entitled an Act to provide for the protection of foreigners and to define their liabilities and privileges, approved March 30th, 1853.

Report accepted and bill placed on calendar.

Mr. Wilson made the following report:

*Mr. President:*

The Special Committee to whom was referred Assembly Bill No. 284, an Act to authorize Samuel A. Bishop, or his assigns, to collect tolls on a road in Los Angeles County, have had the same under consideration, and beg leave to return the same back to the Senate, without amendment, and recommend its passage.

B. D. WILSON,  
Committee.

Report accepted and with the bill placed on file.

Mr. Carpenter, of the El Dorado Delegation, made the following report:

*Mr. President:*

The El Dorado Delegation, to whom was referred Assembly Joint Resolution

relative to the establishment of a certain mail route in El Dorado, ask leave to report back the accompanying substitute, and recommend its passage.

G. J. CARPENTER,  
HENRY M. FISKE,  
J. M. JOHNSON.

Report accepted.

On motion, the rules were suspended, resolution and substitute considered, substitute adopted and passed.

Mr. Walkup, from special committee, made the following report:

*Mr. President:*

The undersigned, of the Special Committee to whom was referred Assembly Bill No. 277, report the same to the Senate, and recommend its passage without amendment.

JOSEPH WALKUP,  
JOSIAH JOHNSON,  
WESTMORELAND,  
FERGUSON.

On motion, the rules were suspended, and Assembly Bill No. 277 considered, an Act to amend an Act entitled an Act dividing the State into Counties and establishing the Seats of Justice therein, passed April 25th, 1851.

Mr. Mandeville in the chair.

Mr. McCallum moved to refer the bill to the El Dorado, Placer and Sacramento Delegations.

Lost.

The bill was then read a third time and passed.

Mr. Ashley offered the following resolution :

*Resolved*, That the Secretary of State be requested to furnish to the Senate all information he has in reference to the translation into Spanish of the laws of 1856, by Augustin Ainsa.

Adopted.

Mr. Westmoreland moved to suspend the rules and take up Senate bill No. 105, an Act concerning Notaries Public, which was lost.

The following report was made by the Special Committee relative to the translation of the laws into Spanish :

*Mr. President :*

Your Committee, on the part of the Senate, to whom was assigned the duty to inquire into and report concerning the translation of the laws of the year 1856 into the Spanish language, beg leave to submit the following report :



On the 15th March, 1856, pursuant to resolution adopted by both Houses, a Joint Committee reported the name of Augustin Ainsa, and recommended his appointment as State Translator, which report, as shown by their separate journals, was adopted by both Houses.

Mr. Ainsa formally contracted with the State to translate into the Spanish language the laws of the session, and to correct proof-sheets whenever they should be submitted to him, for which he was to receive the sum of one dollar per folio for each folio translated.

Your Committee find, further, that Mr. Ainsa translated all the laws passed during the session of 1856, and that the same are now in the charge of the Secretary of State; who, believing that Mr. Ainsa had transcended his duties, in translating laws which, from his notion, did not require to be rendered into the Spanish language, declined having them printed in the Spanish language until the Legislature might take further action in the matter.

Whereupon, your Committee respectfully recommend that the Secretary of State be instructed to have printed in the Spanish language the laws of 1856, as translated by Mr. Ainsa, and that when said Ainsa shall have completed his contract, by correction of proof-sheets, &c., then his account against the State be allowed.

R. HARRISON,  
E. M. DAVIDSON,  
JAS. O'NEILL,

Of the House.

J. M. MANDEVILLE,  
J. W. COFFROTH,  
D. CRANDALL,

Of the Senate.

Report accepted and placed on calendar.

The hour having arrived for the consideration of the special order, Assembly bill No. 290, an Act supplementary to an Act entitled an Act to provide for the incorporation of Railroad Companies, passed April 22d, 1853, and to the several Acts amendatory thereto, was taken up.

Mr. Westmoreland moved to lay the bill on the table, which was lost.

The bill was then considered in Committee of the Whole. After some time spent in consideration of the bill, the Committee rose, and reported back the bill without amendment.

In Senate—Mr. Westmoreland moved to recommit the bill to the Committee on Corporations, with special instructions to strike out the word "whereas" wherever it may occur in the bill, and all that which follows said words, connected immediately therewith. Also, to report a substitute, conformable to the Constitution, and not obnoxious to the rule heretofore adopted in legislation; which was carried.

On motion, the following message, received from the Governor, was taken up and read:

EXECUTIVE DEPARTMENT,  
Sacramento, March 26, 1857. }

*To the Senate of California:*

An Act to grant H. M. Stone the right of way across the Sacramento river, is returned to your honorable body, in which it originated, without approval.

The Act referred to, reads as follows:

"The right of way is hereby granted to H. M. Stone, to establish, keep, and run a Ferry across the Sacramento river, at some point within one mile of the town of Tehama, county of Tehama, for two years from the passage of this Act, and to take and collect such toll as may be established by the Board of Supervisors of said county, for other ferries across said river in said county; said Stone being hereby made subject to all the provisions of the law applicable to persons running ferries under licenses from Board of Supervisors."

It will be perceived, that the title conveys but an imperfect idea of what is embodied in the Act, being, in fact, a grant of a ferry franchise for two years. At the first session of the Legislature of this State, a general Act was passed, which conferred upon the local county authorities, the right to establish ferries, and with the various amendments since adopted, now constitutes the law regulating these matters. The necessity of such general laws is apparent. We can readily conceive the multitude of Acts of special legislation which, but for this law, would have marked the pages of our statutes, and constituted a huge volume of themselves, and so sufficient has been the existing laws, that with all the special legislative Acts of the past in the State, this, it is believed, is the first instance in which the Legislature has granted a ferry privilege on any river in this State. If, at this late period, when the well directed efforts of our legislators are accomplishing so much towards a reform in the legislation of the State, particularly of that character which is *special*—a precedent of this kind, for the first time is established—well may we then conclude, that these indications of reform are but illusory, and henceforth the exercise of legislative power shall be unnecessarily bestowed upon the most trivial matters tending to a prolongation of the session, and of a consequence, largely increasing the expenditures of State.

The effect of this precedent of legislation has been already developed, in at least the notice of the introduction of a bill to establish a ferry in another county, and the end is not yet, if in the present instance it should become a law.

The distinction which I have drawn, during my executive term, in relation to matters of this nature, embracing ferries, bridges, and roads, is simply this:—When the uniform policy of the State in the establishment of ferries and bridges, has conferred upon the local authorities the exercise of this power, there let it remain. The same may be said of roads and highways, which involve private rights and the expenditure of private capital. In all such instances, when interrogated, I have refused to give to them my sanction. There are, however, instances wherein those general laws deny the exercise of this power by the local authorities, doubtless for wise motives, and the sanction of the Legislature becomes necessary. Of this character may be denominated the erection of bridges spanning the navigable waters of the State. The obstructions which they would present to navigation and commerce, is most usually so diffused in its influence, and widely spread in its effects, so as to render it no matter of mere local consideration, but in which the people in other portions of the State have the right, through their chosen representatives, to inquire into, and pass judgment upon. The present case is not of that nature. Here the ferry is proposed to be established wholly within the limits of a single county, and whilst under the general law, no such right can be extended beyond one year, in this the privilege is granted for two years. It is urged that the history of this case is peculiar, arising from the fact that the Board of Supervisors cannot act on the application, because of the personal interest of two of the members of the Board. If this be so, it exhibits the necessity of so amending the general law as to remove this disability, not only as applicable to the present instance, but which will alike apply to any future occasion. This can be done, if you please, by

authorizing, in such cases, a transfer of the application to the Board of Supervisors of an adjoining county for determination, or the adoption of any other proper mode whereby ample remedy can be afforded in all similar cases. Do this, and full relief will be afforded this applicant, and the necessity of special legislation, in like cases, provided against in all future time.

For the reasons I have enumerated, it becomes my duty to return the bill for your further consideration.

J. NEELY JOHNSON.

Mr. Melony moved to lay the message on the table, which was lost.

The question being, Shall the bill pass notwithstanding the veto of the Governor? the roll was called with the following result:

AYES.

Messrs. Bynum, Cosby, Crandall, Goodwin, Melony, Soule and Wilson—7.

NOES.

Messrs. Ashley, Bell, Burnett, Carpenter, Coffroth, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, Merritt, Mesick, Shaw, Taliaferro, Waite, Walkup, Westmoreland and Woodworth—20.

So the veto of the Governor was sustained.

Mr. Coffroth, by leave, presented an Act to authorize the Executors of Joseph S. Folsom, deceased, to sell the real estate of their Testator at private sale, which was read first and second time, and referred to the Judiciary Committee.

On motion of Mr. Merritt, the Senate took a recess in order to prepare for the trial of G. W. Whitman.

The Senate re-assembled at the time appointed.

The President presiding.

Roll called.

Absent—Messrs. De La Guerra, Melony and Sullivan.

The President announced that all Legislative and Executive business was suspended, and that the Senate was now organized as a High Court of Impeachment for the trial of George W. Whitman, Controller of State.

Whereupon, the Secretary of the Senate notified the Assembly of the organization of the Senate as a Court of Impeachment, and the Sergeant-at-Arms made proclamation of the same at the door of the Senate in accordance with the rules.

Counsel for the defendant and the managers being ready for trial, the Court ordered that the books, papers, &c., given in charge to E. F. Burton be produced in Court.

Mr. Coffroth presented the following certificate, and stated for the Sheriff of Sacramento County, that he awaited further orders, under the circumstances relative to producing E. A. Rowe in Court:

"I have examined and prescribed for Mr. Rowe, find him suffering from an attack of intermittent neuralgia, rendering exertion and exercise, physical and mental, painful, and in my opinion, improper.

"W. G. PROCTOR, M. D."

The question being, Shall the order of the Court directing the Sheriff of Sacramento County to produce in Court E. A. Rowe be rescinded? was decided in the negative.

AYES.

Mr. Bynum—1.

NOES.

Messrs. Bell, Burnett, Carpenter, Chase, Coffroth, Cosby, Crandall, Dosh, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, McGee, Merritt, Mesick, Norman, Shaw, Soule, Walkup, Westmoreland, Wilson and Woodworth—25.

R. M. Woods, County Treasurer of San Francisco County, was then called on the part of the State, duly sworn by the Secretary of the Senate, examined and cross-examined.

Mr. Woods' examination being concluded, it was ordered by the Court, there being no objection, that the further attendance of Mr. Woods be dispensed with.

Mr. W. W. Brooks was then called on the part of the State, and being duly sworn was examined and cross-examined.

Mr. Shaw presiding.

Mr. David Maddux, was recalled on the part of the State and examined and cross-examined.

On motion of Mr. Coffroth, it was ordered by the Court:

That a Committee of four be appointed to proceed to the prison brig and ascertain the facts in relation to the inability of E. A. Rowe, to attend as a witness.

Messrs. Coffroth, Fiske, Taliaferro and Norman, were appointed said Committee.

The following questions were put to the witness Maddux, by the managers:



"Have you made any other settlement with the Controller than that in November, 1856, and if so did you pay in warrants instead of cash?"

Objections being made by defendant's counsel, the question was put to the Court:

"Shall the question of the managers be put?"

Upon which the ayes and noes were taken with the following result:

AYES.

Messrs. Carpenter, Crandall, Johnson of El Dorado, Mandeville, McCallum, McGee, Merritt, Shaw, Soule, Walkup, Wilson and Woodworth—12.

NOES.

Messrs. Ashley, Bell, Burnett, Bynum, Coffroth, Cosby, Dosh, Ferguson of Sierra, Goodwin, Johnson of Sacramento, Mesick, Waite—12.

President in the Chair.

There being a tie, the President voted in the negative, and the question was overruled.

Mr L. McKimm, was then called and duly sworn, examined and cross-examined.

*Ordered by the Court*, there being no objection, that the official reporter take a copy of the discharge of Mr. McKimm, Treasurer of Amador County, read and admitted as evidence, and that said copy be used as evidence the same as the original.

Mr. James Maddux, was called on the part of the State, and duly sworn, examined and cross-examined.

Mr. Reed recalled, and further examined and cross-examined.

The Committee appointed to visit E. A. Rowe in prison, severally reported, and the Court ordered, there being no objection, that the Committee visit the witness again to-morrow, and report further, and that the Sheriff be released from complying with the writ, until further orders.

On motion, the Court adjourned until to-morrow, March 28th, at 12 o'clock, M.

IN SENATE.

On motion of Mr. Taliaferro, the Senate adjourned.

Approved March 28th, 1857.

R. M. ANDERSON,  
President Senate.

Attest:

GEO. S. EVANS, Secretary Senate.

## IN SENATE

SATURDAY, March 28th, 1857.

Senate met pursuant to adjournment.

The President in the chair.

Roll called.

Journals of yesterday read and approved.

Leave of absence was granted to Mr. Sullivan for two days.

Mr. Walkup presented a petition from citizens of Placer County, praying the Legislature to enact a law for the better observance of the Sabbath.

Read and referred to the Judiciary Committee.

Mr. Ashley, Chairman of Judiciary Committee, made the following report:

*Mr. President:*

The Judiciary Committee, to whom was referred Assembly Bill No. 191, an Act to provide for the publication of the General Laws of the State in force at the expiration of the eighth session of the Legislature, have had the same under consideration, and recommend its passage with the amendment attached.

D. R. ASHLEY,  
Chairman.

AMENDMENT.—Append to section third: "But the Controller shall not issue such warrants until there is money in the Treasury for the payment of the same."

Report received, and with bill placed on calendar.

Mr. Waite, from Committee on Corporations, made a verbal report on Assembly Bill No. 290, an Act supplementary to an Act entitled an Act to provide for the incorporation of Railroad Companies, passed April 22d, 1853, and to the several Acts amendatory thereof, and recommend its passage, with the following amendments:

AMENDMENTS.—Strike out from the word "whereas," to the word "therefore," inclusive.

In line 9th, strike out the word "such," and insert "Railroad Companies or."

Report received, and with the bill placed on the calendar.

Mr. Melony made the following report:

*Mr. President:*

Your Committee to whom was referred Assembly Bill No. 282, entitled an Act to authorize the Board of Supervisors of Contra Costa County to pay the current expenses of said county, have had the same under consideration, and respectfully report the same back with amendments, and recommend its passage.

Amendment to section 1: "Which may have been contracted by said county since the first day of June, 1855, and which has not been heretofore funded."

On motion of Mr. Melony, the rules were suspended, and the bill considered in Committee of the Whole, reported back to the Senate with an amendment.

In Senate. Amendment adopted, bill read third time and passed.

Mr. Ashley made the following report:

*Mr. President:*

The Senate Select Committee on Assembly Bill No. 179, concerning the Salaries of the County Judges and District Attorneys in certain Counties, have consulted and recommend the following amendments:

In section 1 strike out from "and," in 4th line, to the word "each," in 5th line, inclusive.

Strike out from "and," in 9th line, to "dollars," in 11th line, inclusive.

After "dollar," in 13th line insert "and the County Judge of Colusi County, for his services annually, the sum of one thousand dollars."

Strike out from the word "and," in 18th line, to "dollars," in 20th line, inclusive.

After "Monterey," in 21st line, insert "and the District Attorney of Colusi County, each."

In 22d and 23d lines strike out the words "eight hundred" and insert "seven hundred and fifty."

Strike out from "and," in 25th line, to "dollars," in 27th line, inclusive.

Strike out from "and," in 6th line, to "dollars," in 8th line, inclusive, and insert "the County Judge of the county of Mariposa, for his services annually, the sum of four thousand dollars; and the County Judge of the county of Yuba, for his services annually, the sum of three thousand dollars."

Report accepted, and with bill, placed on calendar.

Mr. Coffroth made the following report:

*Mr. President:*

The Committee on Corporations, to whom was referred Senate Bill No. 176, an Act supplementary and amendatory of an Act entitled an Act to authorize the formation of corporations for the construction of Plank and Turnpike Roads, report the same back for the consideration of the Senate.

J. W. COFFROTH,  
Of the Committee.

Mr. Coffroth, Chairman of the Committee on Public Lands, made a verbal report relative to Assembly Bill No. 209, with amendment, an Act amendatory and explanatory of an Act entitled an Act amendatory of an Act entitled an Act to provide for the disposal of Lots in Towns and Villages on the Public Land in Humboldt County, passed April 3d, 1856.

Insert in the last lines, in the place of provision, the words: "Provided, that the County Judge or corporate authorities, or both in conjunction, may, in their

discretion, adopt any map and surveys heretofore made of any town to which this Act is applicable."

Report accepted and bill placed on calendar.

Mr. Taliaferro made a verbal report relative to Assembly Bill No 252, an Act restricting the herding of sheep to certain pasturage in the county of Sonoma, recommending its passage without amendment.

Report accepted, and bill placed on the calendar.

Mr. Cosby made a verbal report relative to Assembly bill No. 293, "An Act fixing the time of holding the Courts of Sessions, County Courts, and Probate Courts, in the counties of Siskiyou and Colusi," recommending its passage without amendment.

Report accepted, and bill placed on calendar.

The following message was received from the Governor :

EXECUTIVE DEPARTMENT,  
Sacramento, March 26th, 1857. }

*To the Senate of California :*

I have this day approved "An Act concerning the Harbor Master of the port of San Francisco"

Also, "An Act to amend an Act concerning evidence," passed February 5th, 1856.

J. NEELY JOHNSON.

The following message was received from the Assembly:

*Mr. President :*

I am directed to inform the Senate, that the Assembly on yesterday, concurred in Senate amendments to Assembly bill No. 207, "An Act supplementary to an Act entitled an Act, to provide for the formation of Corporations for certain purposes," passed April 14th, 1853.

Also, concurred in Senate amendments to Assembly bill No. 189, "An Act concerning Hogs found running at large, in the counties of Colusi, Tehama, and Butte."

Also, passed Assembly bill No. 266, "An Act supplementary to an Act entitled an Act, to apportion this State into Senatorial and Assembly Districts," passed May 18th, 1853.

March 25th, 1857.

W. CAMPBELL,  
Clerk Assembly.

Assembly bill No. 266, was read first and second times, and referred to the delegation from San Francisco.

The following message was received from the Assembly:

ASSEMBLY CHAMBER, March 26th, 1857.

*Mr. President :*

I am directed to inform the Senate, that the Assembly have passed Assembly bill No. 45, "An Act to amend an Act entitled an Act to regulate Fees of office," approved April 10th, 1855.



Also, Assembly bill No. 165, "An Act to amend an Act entitled an Act to provide for the appointment and prescribe the duties of Guardians," passed April 19th, 1850.

Also, Assembly bill No. 299, an Act to authorize the Board of Supervisors of Humboldt County to levy a special tax for certain purposes, and to provide for the collection of the same.

Also, Assembly bill No. 303, an Act to define the boundary lines of San Bernardino County.

W. CAMPBELL,

March 16, 1857.

Clerk of Assembly.

Assembly bill No. 45 was read first and second times and referred to the Judiciary Committee.

Assembly bill No. 165 was read first and second times and referred to the Judiciary Committee.

Assembly bill No. 299 was read a first and second times and referred to the Delegation from Humboldt.

Assembly bill No. 303 was read first and second times and referred to the Delegation from San Bernardino.

The following message was received from the Assembly :

*Mr. President :*

I am directed to inform the Senate that the Assembly, on the 26th instant, passed Senate bill No. 113, an Act amendatory of and supplementary to an Act to establish, regulate, and support Common Schools, and to repeal former Acts concerning the same, approved May 3d, 1855.

The Assembly has appointed Messrs. Brent, Clark and Chenery a Committee of Free Conference on Senate bill No. 151, an Act to amend an Act entitled an Act defining the rights of Husband and Wife, passed April 17, 1851, and ask the appointment of a similar committee on the part of the Senate.

W. CAMPBELL,

March 28, 1857.

Clerk of Assembly.

The President announced Messrs. Cosby, Waite, and Ferguson of Sacramento, as Committee on the part of the Senate, relative to Senate bill No. 151, to confer with a similar committee of the Assembly.

The following message was received from the Assembly :

*Mr. President :*

I am directed to inform the Senate that the Assembly on yesterday passed the following Senate bills :

Senate bill No. 71, an Act concerning official and other bonds ; with an amendment, and ask the concurrence of Senate thereto,

Senate bill No. 116, an Act to authorize the Executrix and Executors of the last will and testament of William D. M. Howard, deceased, to sell real estate of the testator at private sale.

Senate bill No. 11, an Act to legalize certain Records in the County of Solano.

Senate bill No. 174, to amend an Act concerning Judges of the Plains, (Jueces del Campo,) and defining their duties, approved April 25th, 1851.

Also, passed Assembly bill No. 267, an Act to reorganize and establish the County of San Mateo.

W. CAMPBELL,

March 27, 1857.

Clerk of Assembly.

Senate bill No. 71, amendments of Assembly concurred in.

Assembly bill No. 267 was read first and second times and referred to the Delegation from San Francisco.

The hour having arrived for the consideration of the special order of the day, Senate bill No. 125, an Act to appropriate three millions two hundred and thirty-nine thousand four hundred and eighty-nine dollars, to pay certain outstanding claims against the State; and Senate bill No. 53, an Act to legalize the present Indebtedness of the State of California, and to provide for its Payment, were taken up and considered in Committee of the Whole. After some time spent in consideration of the bills and amendments, the Committee rose and reported back Senate bill No. 125, with amendments.

In Senate—Mr. Walkup moved to recommit the bill to a committee, consisting of Messrs. Norman, Coffroth, and Shaw, with special instructions.

Mr. Norman moved to make the bill the special order for Monday next, the 30th inst., at 10½ o'clock, and on each succeeding day until disposed of.

Adopted.

Mr. Crandall, Chairman of the Committee on Enrollment, made the following report:

*Mr. President:*

Your Committee on Enrollment have examined and found correctly enrolled, Senate bill No. 116, "An Act to authorize the executrix and executors of the last will and testament of William D. M. Howard, deceased, to sell real estate of the testator, at private sale.

D. CRANDALL.

On motion of Mr. Goodwin, the Senate took a recess of fifteen minutes, to prepare for the trial of Geo. W. Whitman.

The Senate reassembled at the time appointed.

The President presiding.

Roll called—absent, Messrs. De La Guerra, Sullivan, and Melony.

The President announced that all Legislative and Executive business was suspended, and that the Senate was now organized as a High Court of Impeachment, for the trial of George W. Whitman, Controller of State.

Whereupon, the Secretary of the Senate notified the Assembly of the organization of the Senate as a Court of Impeachment, and the Sergeant-at-Arms made proclamation of the same at the door of the Senate, in accordance with the rules.

On motion of the managers,

Ordered by the Court, that by direction of the presiding officer, writs of attachment shall issue against all defaulting witnesses, during the trial.

Counsel for the defendant and managers being present, Attorney General Wallace, and Mr. Willis, Clerk in the Controller's office, were called for on the part of the State, and not appearing, E. A. Rowe was called, on the part of the State, he, (Rowe,) being too unwell to be produced in court, and the managers stating that they were not prepared to go on with the trial, without the presence of the above named witnesses, Mr. Waite offered the following order:

*Ordered*, That the Court stand adjourned until Monday next, the 30th inst., at 12 o'clock M.

Adopted by the following vote:

AYES.

Messrs. Burnett, Bynum, Chase, Cosby, Crandall, Ferguson of Sacramento, Ferguson of Sierra, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McGee, Waite, Walkup and Woodworth—15.

NOES.

Messrs. Ashley, Bell, Carpenter, Coffroth, Fiske, McCallum, Merritt, Mesick, Soule, Taliaferro—10.

So the Court adjourned.

#### IN SENATE.

Mr. Woodworth moved that the Senate adjourn, upon which the ayes and noes were demanded by Messrs. McCallum, Merritt and Walkup, and taken with the following result:

AYES.

Messrs. Bell, Crandall, Ferguson of Sacramento, Mandeville, McGee, Mesick and Wilson—7.

NOES.

Messrs. Ashley, Burnett, Bynum, Carpenter, Chase, Coffroth, Cosby, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Johnson of El Dorado, McCallum, Melony, Merritt, Norman, Soule, Taliaferro, Waite, Walkup and Westmoreland—21.

So the Senate refused to adjourn.

Mr. McCallum in the chair.

Mr. Goodwin, by leave, introduced an Act to grant the right of way to H. B. Lathrop, E. S. Lathrop, and others, to bridge Feather River at the village of Oroville, Butte County.

Read first and second times and referred to the Delegation from Butte.

Mr. Sullivan introduced an Act to legalize acknowledgments taken by the Recorder and Deputy Recorder of Monterey County.

Read first and second times and referred to the Judiciary Committee.

Mr. Ashley introduced an Act concerning County Auditors.

Read first and second times and placed on calendar.

Mr. Merritt, of the Judiciary Committee, asked leave to present a minority report relative to Senate Bill No. 168.

Objections being made, the question was put—"Shall leave be granted?"

Decided in the affirmative, and the following report made:

*Mr. President:*

The undersigned members of the Judiciary Committee, to whom was referred Senate Bill No. 168, entitled an Act to allow the Mayor and Council of Sacramento to bridge the Sacramento River, beg leave to make the following report: That they do not believe the Constitution contemplates the conferring of such powers contained in said Act, on a municipal corporation. The enterprise proposed, is costly and hazardous, and may result in pecuniary profits, or disastrous losses; it is not a municipal purpose—it does not come within the circle of objects which municipal corporations were designed to accomplish. They were designed to regulate the internal affairs of the places in which they were located; police, health, streets, lanes, alleys, and the like, are the appropriate subjects of municipal administration; and, though a city may go beyond its boundaries to purchase necessities for its existence, safety, and comfort, yet its jurisdiction is properly exercised only within its territorial limits, and on subjects that pertain to its domestic economy and well-being. And we refer to the case of *Lowe v. The City of Marysville*, decided by the Supreme Court of this State at the July term, 1855, which it will be found sustains this view of the question. The Legislature have recently passed an Act granting a similar franchise to certain private parties residing in Sacramento. The public interests certainly do not require the construction of two bridges at this place. The passage of the present Act, therefore, would not be a matter of public utility, but rather a matter of spite against the persons who have already obtained, by Act of the Legislature, a similar franchise. We therefore respectfully recommend the indefinite postponement of the present bill.

All of which is respectfully submitted

S. A. MERRITT,  
JNO. D. COSBY.

Report accepted and placed on file.



Mr. Woodworth introduced an Act to set apart the Homestead and to protect the same from forced sale.

Read first and second times.

Mr. Westmoreland moved to suspend the rules and further consider the bill.

Lost.

On motion of Mr. Woodworth, the bill was referred to the Judiciary Committee.

Mr. Waite introduced an Act concerning the debt of Nevada County, and to provide for the payment of the same.

Read first and second times and referred to the Delegation from Nevada.

Mr. Goodwin offered the following resolution:

*Resolved*, That the Committee from Butte County to whom was referred the bill to grant E. S. Lathrop, and others, the right of way across Feather River at the village of Oroville, be instructed to report the same on Monday, the 30th instant.

Adopted.

Mr. Waite, gave notice that on Monday he will introduce an Act to register the valid claims against the State, and to provide for their payment.

Also, an Act to provide for the payment of the July and January interest on the funded debt of the State.

Mr. Merritt gave notice that on Monday he will introduce a bill directing the State Treasurer to receive gold dust from the Treasurer of Fresno County, in payment of Taxes.

#### GENERAL FILE.

Senate Bill No. 8, an Act to legalize certain conveyances, was read a third time and passed.

Mr. McGee, moved to suspend the rules and take up Assembly message, which was carried, and the following message read.

*Mr. President :*

I am directed to inform the Senate that the Assembly have this day adopted a concurrent resolution relative to an Assembly enrolled bill, and ask the concurrence of the Senate.

Also, Assembly Bill No. 232, an Act to amend an Act to define the time when the county officers of Sierra County shall enter upon the discharge of their duties.

W. CAMPBELL,

March 28, 1857.

Clerk of Assembly.

Assembly Concurrent Resolution concurred in.

Assembly Bill No. 232, was read first and second times and referred to the delegation from Sierra.

GENERAL FILE RESUMED.

Senate Bill No. 178, an Act amendatory and supplementary to an Act to establish an Asylum for the Insane of the State of California, passed May 17th, 1853, was read a third time.

The question being "Shall the bill pass?" was put and lost.

So the bill was rejected.

Senate Bill No. 169, an Act to amend an Act entitled an Act to create a Board of Supervisors in the counties of this State, and to define their duties and powers, was read a third time and passed.

Mr. Melony gave notice that on Monday next he will move to reconsider the vote by which the Senate passed the bill.

Senate Bill No. 67, an Act to amend an Act entitled an Act concerning Attorneys and Counsellors at Law, passed February 19, 1851, was read a third time and passed.

Senate Bill No. 136, an Act amendatory of and supplementary to an Act for the protection of Game, passed May 13th, 1854, was read a third time and passed.

On motion of Mr. Westmoreland, the Senate adjourned.

Approved March 30th, 1857.

R. M. ANDERSON,  
President of the Senate.

Attest:

GEO. S. EVANS, Secretary of the Senate.

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IN SENATE.

MONDAY, March 30th, 1857.

Senate met pursuant to adjournment.

The President in the chair.

Roll called

Journals of Saturday read and approved.

Leave of absence was granted to Mr. Wilson for the day.

Leave of absence was granted to Mr. Woodworth for the day.

Indefinite leave of absence was granted to Mr. Waite.

Mr. Wilson made the following report:

*Mr. President:*

The Special Committee to whom was referred Assembly Bill No. 303, an Act to define the Boundary Lines of San Bernardino County, has had the same under consideration, and beg leave to report the same back without amendment, and recommend its passage.

B. D. WILSON,  
Committee.

Mr. Coffroth in the chair.

Mr. Johnson of Sacramento, Chairman of the Committee on Finance, made the following report:

*Mr. President:*

The Committee to whom was referred Senate Bill No. 173, an Act to provide Revenue for the Support of the Government, have had the same under consideration, and report it back and recommend its passage with the following amendments:

Section 1, in 11th line, after the word "act" insert "for State purposes."

Section 2, in 5th line, after the words "market houses" insert "houses occupied by fire companies and their apparatus;" in 18th line strike out the words "growing crops."

In 19th line strike out the words "mining claims."

Section 3, line 20, after the word "refusal" insert "or failure."

Section 4, lines 11, 12 and 13, strike out the first proviso.

Line 13, after the word "parties" insert "claim or."

Line 14, after the word "to" strike out the word "the" and insert "such."

Strike out 15th and 16th lines and insert "making such claims or giving such description."

Section 6, line 5, after the word "firm" insert "the property of every private or incorporated company shall be taxed in the county where the property is situated."

Section 9, line 2, after the word "of" insert "movable."

Section 10, line 6, strike out the word "may" and insert "shall."

Line 7, after the word "he" insert the words "or she."

Section 20, line 2, strike out "that" and insert "this."

Section 23, strike out the words "conclusive proof," in lines 7, 8, 9, and 11, and insert in place thereof the words "prima facie evidence."

Line 11, after the word "the" insert the words "truth of."

Line 13, after "was" insert "not."

Line 14, after "were," insert "not."

Line 16, strike out "not."

Line 17, after "was," insert "not."

Line 18, after "was," insert "not."

Line 20, after "was," insert "not."

Line 21, strike out word "not."

Line 22, after "was," insert "not."

Section 24, strike out 13th line.

Section 25, line 6, after "payment," insert "two."

Section 26, 2d line, insert after "judgment," "and writ."

Line 3, before "writ," insert "judgment and."

Section 30, line 4, after "security," insert "trustee."

Section 31, 2d line after "he," insert "may."

Section 34, after words "and poll taxes," strike out the remainder of the section.

Section 43, line 1, strike out "on," and insert "prior to," and strike out the words "or as soon as conveniently practicable thereafter."

Section 46, line 2, after "Treasurer," insert "or other officers."

Line 5, after "Treasurer," insert "or other officer."

Section 49, strike out 1st, 2d, 3d, and 4th, and the words "section 19th," on 5th line.

Section 50, after the words "section 50," strike out first line, and all in second line to the word "the."

Section 51, after the words "section 51," strike out first and second lines, and the words "section 21," in 3d line.

Section 55, after the word "one," in 5th line, insert "eight."

The Committee had under consideration, further amendments to sections 49, 50, and 51, but could not agree upon the same, and have directed me to report the same back, for the consideration of the Senate.

JOSIAH JOHNSON,  
Chairman.

Report accepted, and on motion of Mr. Shaw, bill and report made the special order for to-morrow, the 31st inst., at 11 o'clock.

Mr. Ashley, of the Committee on Enrollment, made the following report:

*Mr. President :*

The Committee on Enrollment have examined and found correctly enrolled, Senate bill No. 113, an Act amendatory of, and supplementary to "An Act to establish, support, and regulate common schools, and to repeal former Acts concerning the same," approved May 3, 1855, and the Act was presented to the Governor for his approval on the 28th day of March, 1857.

D. R. ASHLEY,  
Of the Committee.

Mr. Ashley for Mr. Waite, introduced "An Act to provide for the payment of the Interest on the Funded Debt of the State of California," which was read first and second times, 240 copies ordered printed, and bill referred to the Judiciary Committee.

The following communication was received from the Secretary of State, read and placed on file.

STATE OF CALIFORNIA, }  
Office of the Secretary of State. }

*To the Hon. the Senate :*

In reply to a resolution of the Senate adopted on the 27th inst., requesting me to furnish all the information in my possession relative to the translation of the laws of 1856 into Spanish, I have the honor to report:

That on the twelfth day of January, 1856, I advertised for proposals to translate into the Spanish language such laws of the Legislature of 1856 as might be selected for that purpose. Under this advertisement, Mr. A. Ainsa was appointed translator on the first Monday of March subsequent.



As has been the invariable custom at the adjournment of the session, a committee of the Legislature selected the laws which should be translated, and they were furnished to the translator on or about the first day of May thereafter.

Sometime during the fall, the month of November I believe, Mr. Ainsa, through the Attorney General, tendered me a manuscript which he represented as a translation of all the laws passed at the Session of 1856, and stated that unless I would receive the entire manuscript he would not deliver any portion of it. The laws selected for translation were thirty-five in number. The entire number of laws passed at that session, said to be contained in the manuscript translation thus tendered for my acceptance, is one hundred and fifty. I did not feel myself authorized to receive the translation of any laws except those that had been selected for that purpose in the manner prescribed by law, and in accordance with the practice heretofore observed on that subject.

It is true the Constitution provides that all laws, decrees, regulations and provisions which from their nature require publication, shall be published in English and Spanish, yet all the laws of the Legislature have never heretofore been ordered published or translated in the Spanish language. And the Act of 1854 concerning the office of Secretary of State, expressly provides for the translation only of such laws as may be authorized by the Legislature. All the laws of the session of 1855 were translated into Spanish, but it was by an express understanding, as I am informed, with the Secretary of State, that such translation should not cost a greater amount than the translation of those only that had been selected for that purpose.

The translator also accepted the office under the advertisement which I made, which distinctly sets forth that it is for the translation of such laws as may be selected for that purpose. Also, the bond and contract of the translator, filed after his appointment, recites that it is his duty to translate into the Spanish language such laws of the Legislature of 1856 as may be selected for that purpose by a joint committee of the said Legislature.

In view of all these facts, the invariable practice, the terms of my advertisement, the bond and contract of the translator, and from a disposition to consult economy in expenditures, as far as practicable, I refused to receive the manuscript translation of all the laws as tendered to me.

I hereby transmit for your more full information the advertisement for proposals, the report of the committee selecting the laws to be translated and the bond containing the contract of the translator.

Respectfully,

DAVID F. DOUGLASS,  
Secretary of State.

Mr. Crandall, Chairman of the Committee on Enrollment, made the following report :

*Mr. President :*

Your Committee on Enrolled Bills have examined and found correctly enrolled :

An Act amendatory of and supplementary to an Act entitled an Act to create the office of State Printer, and define the duties and compensation thereof, and to provide for the time and manner of election, passed May 1st, 1854.

Also, an Act granting certain Swamp and Overflowed Lands to the City of Sacramento.

Also, an Act to amend an Act concerning Judges of the Plains, and defining their duties, approved April 25, 1851.

Also, an Act concerning Persons under sentence of Imprisonment.

Also, an Act to provide for the Payment of the Indebtedness of the County of Shasta, contracted prior to the first day of March, A. D. 1857.

Also, an Act to legalize certain Records in the County of Solano.

Also, an Act to provide for the Payment of the Debts of the counties of San Luis Obispo and Santa Barbara.

Also, an Act concerning the Revenue of Calaveras County.

Also, an Act to guard against the Destruction of Property by Fire, by means of Sparks from the Chimneys of Steamboats navigating certain waters of this State.

Also, an Act to authorize the execution of a bond under an Act for Funding the Debt of the City of San Francisco, passed May 7th, 1855.

Also, an Act to limit the Time for Presentation of Claims against Counties, and for receiving payment for the same.

D. CRANDALL,

Chairman.

The hour having arrived for the consideration of the special order of the day, Senate bill No. 125, an Act to appropriate three millions two hundred and thirty-nine thousand four hundred and eighty-eight dollars, to pay certain outstanding claims against the State, was taken up.

On motion of Mr. Mandeville, the amendments reported from Committee of the Whole on Saturday were adopted.

Mr. Walkup moved to commit the bill to a special committee of four, to consist of Senators Norman, Coffroth, Mesick and Shaw, with instructions to report a bill creating a loan of four millions of dollars to take up the outstanding indebtedness of this State.

Mr. Shaw moved to amend "Strike out the names and insert the Special Committee of seven to whom was referred the Assembly Joint Resolution concerning claims against the State."

Mr. Ashley offered the following as a substitute:

*Resolved*, That all the bills relating to the State Debt, be referred to a committee of five, with instructions to prepare an Act for placing all the equitable debts of the State upon an equal footing by making a general funding bill, or a loan, or such other mode to be submitted to the people, as may seem most conducive to the interests of the State; and the committee is instructed to report within three days.

The ayes and noes were demanded by Messrs. Norman, Crandall and Melony, and taken with the following result:

AYES.

Messrs. Ashley, Bell, Burnett, Carpenter, Cosby, Fiske, Goodwin, Johnson of Sacramento, Mandeville, McCallum, Mesick, Shaw and Soule—13.

NOES.

Messrs. Bynum, Chase, Coffroth, Crandall, Dosh, Ferguson of Sacramento, Johnson of El Dorado, McGee, Melony, Merritt, Norman and Sullivan—12.

Mr. Walkup declined voting.

So the resolution was adopted as a substitute.

Mr. Melony moved to amend the resolution by striking out the words "or a loan."

Lost.

The question being upon the adoption of the resolution, was put and carried.

The Chair appointed as the committee under the resolution, Messrs. Ashley, Walkup, Melony, Goodwin and Chase.

#### GENERAL FILE.

Assembly Bill No. 238, an Act to regulate proceedings in criminal cases, passed May 1, 1851; amendments reported by the Judiciary Committee adopted; bill read a third time and passed.

Senate Bill No. 193, an Act supplementary to an Act to amend an Act relating to corporations, passed May 18th, 1853—substitute for Assembly Bill No. 223, an Act supplementary to an Act relating to corporations—reported by Committee on Corporations, was read first and second times and adopted, considered engrossed, read a third time, and passed.

Senate Bill No. 168, an Act to allow the Mayor and Council of Sacramento to Bridge the Sacramento River, being under consideration, Mr. McCallum moved to make the bill the special order for Thursday next at 11 o'clock.

Mr. Melony moved to indefinitely postpone the bill, upon which a debate arose.

Mr. McCallum rose to a point of order, which was, That on a motion to commit to a day certain, the merits of the bill could not be discussed.

The Chair ruled the point of order well taken.

On motion of Mr. Norman, the rules were suspended so as to allow the discussion to be continued.

Mr. Goodwin moved that the Senate take a recess for five minutes.

Lost.

Mr. Melony moved the previous question, which was put and sustained.

Question being, Shall the main question be now put? the ayes and noes were demanded by Messrs. McCallum, Johnson of Sacramento, and Carpenter, and taken with the following result:

#### AYES.

Messrs. Bell, Bynum, Coffroth, Cosby, Crandall, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Johnson of El Dorado, Melony, Merritt, Norman and Taliaferro—13.

## NOES.

Messrs. Ashley, Burnett, Carpenter, Fiske, Goodwin, Johnson of Sacramento, Mandeville, McCallum, Mesick, Shaw, Soule and Walkup—12.

So the main question was ordered to be put.

The main question being on the motion to make the bill the special order for Thursday next at 11 o'clock, was put and lost.

Question recurring upon the motion of Mr. Melony to indefinitely postpone the bill.

The ayes and noes were demanded by Messrs. McCallum, Johnson of Sacramento, and Shaw, and taken with the following result:

## AYES.

Messrs. Bell, Burnett, Bynum, Coffroth, Cosby, Crandall, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Johnson of El Dorado, Mandeville, Melony, Merritt, Mesick, Norman, Soule and Taliaferro—17.

## NOES.

Messrs. Ashley, Carpenter, Fiske, Johnson of Sacramento, McCallum, Shaw, and Walkup—7.

Mr. Goodwin declined voting.

So the bill was indefinitely postponed.

On motion of Mr. Walkup, the rules were suspended, and Senate Bill No. 180, an Act concerning certain fees paid by the County of Placer, was taken up and considered.

On motion, the rules were further suspended, the bill considered engrossed, read a third time and passed.

## GENERAL FILE RESUMED.

Senate Bill No. 61, an Act to divide the State into Congressional districts according to an Act of Congress, approved June 23d, 1842, being under consideration.

Mr. Shaw offered the following amendment:

In first section, seventh line, strike out the word "and," and in eighth line after the word "Tuolumne" insert the words "and San Mateo."

Adopted.

Mr. Mandeville offered the following amendment:

Section two line four, strike out the word "and," and in fifth line after the word "Yolo" and insert the words, "and Del Norte."

Adopted.



On motion, the rules were further suspended and bill considered engrossed, and as amended read a third time and passed.

On motion of Mr. Carpenter, the Senate took a recess of five minutes to prepare for the trial of George W. Whitman, Controller of State.

The Senate reassembled at the time appointed.

The President presiding.

Roll called.

Absent, Messrs. De la Guerra, Sullivan, Woodworth, Wilson and Waite, by leave.

The President announced that all legislative and executive business was suspended, and that the Senate was now organized as a High Court of Impeachment for the trial of George W. Whitman, Controller of State.

Whereupon the Secretary of the Senate notified the Assembly of the organization of the Senate as a Court of Impeachment, and the Sergeant-at Arms made proclamation of the same at the door of the Senate, in accordance with the rules.

### HIGH COURT OF IMPEACHMENT.

Counsel for defendant and Managers being ready to proceed, E. A. Rowe was called as a witness on the part of the State, and duly sworn by the Secretary of the Senate.

Mr. Edwards, of counsel for the defendant, asked that the counsel for Mr. Rowe be allowed to be present. Objections being made, the application was denied by the following vote :

AYES.

Messrs. Bell, Bynum, Coffroth, Ferguson of Sacramento, Goodwin and Taliaferro—6.

NOES.

Messrs. Ashley, Burnett, Carpenter, Chase, Crandall, Ferguson of Sierra, Fiske, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, McGee, Merritt, Norman, Shaw, Soule, Walkup and Westmoreland—18.

The witness was then examined by the Managers.

The following question was asked by the Managers :

“Do you know whether, during the months of July, August, September and November, 1856, money belonging to the State was deposited with Wells and Fargo, by County Treasurers, which was permitted by the State Treasurer, or yourself, as his clerk, or by any other person authorized by the State Treasurer, to remain in the bank of Wells and Fargo, the Treasurer holding their certificates therefor as cash?”

Objections being made, the Court overruled the question by the following vote :

## AYES.

Messrs. Carpenter, Fiske, Mandeville, McCallum and Norman—5.

## NOES.

Messrs. Ashley, Bell, Burnett, Bynum, Chase, Coffroth, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Goodwin, Johnson of El Dorado, McGee, Merritt, Mesick, Shaw, Soule, Taliaferro, Walkup and Westmoreland—19.

Mr. Cosby declined voting.

Mr. Ashley presiding.

The following question was asked by the Managers :

" Did you receive from the State Treasurer any sum of money, or authorization to receive money, after July, 1856, and if so, what amount did you receive ?"

Objections being made by the defendant's counsel, the Court decided the question not competent by the following vote :

## AYES.

Messrs. Carpenter, Crandall, Fiske, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, Merritt, Norman, Soule, Walkup—11.

## NOES.

Messrs. Ashley, Bell, Burnett, Bynum, Chase, Coffroth, Dosh, Ferguson of Sierra, Goodwin, McGee, Mesick, Shaw, Taliaferro, Westmoreland—14.

Mr. Coffroth in the chair.

The managers asked the following question: " Did you ever substitute a warrant or warrants for money in the State Treasury ?" objections being made by the counsel for the defendant, the court decided the question not competent, there being no objection.

The managers asked the following question: " Did you at any time after July 1st, 1856, receive from the Treasurer of State \$124,000 ? If so, for what, and to what purpose did you apply the money so received ?" objection being made, the Court decided the question not competent, by the following vote:

## AYES.

Messrs. Carpenter, Crandall, Fiske, Mandeville, McCallum, Norman and Walkup—7.

## NOES.

Messrs. Ashley, Bell, Burnett, Bynum, Chase, Coffroth, Dosh, Ferguson of Sierra, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Merritt, Mesick, Soule, Taliaferro and Westmoreland—16.

The managers asked the following question:

"Did you have in your individual capacity in the office of Wells, Fargo & Co., for the purpose of buying certain warrants, money? and if so, what amount in the months of July, August, September and October, 1856, or in either of those months?"

Objections being made, the Court decided the question not competent by the following vote:

AYES.

Messrs. Carpenter, Crandall, Fiske, Mandeville, McCallum, Norman, Soule and Walkup—8.

NOES.

Messrs. Ashley, Bell, Burnett, Bynum, Chase, Coffroth, Dosh, Ferguson of Sierra, Goodwin, Johnson of Sacramento, Merritt, Mesick, Taliaferro and Westmoreland—14.

Messrs. Johnson of El Dorado and Shaw declined voting.

Mr. A. B. McNeil was called as a witness on the part of the State, duly sworn, and examined.

The managers asked the following question:

"What was the average per cent. you made out of the whole amount of profits, valuing the warrants at par?"

Objections being made by defendant's counsel, the presiding officer overruled the question, there being no objections on the part of the Court.

On motion of Mr. Merritt, the Court adjourned until to-morrow at 12 o'clock.

### IN SENATE.

On motion of Mr. Dosh, the Senate adjourned.

Approved March 31th, 1857.

R. M. ANDERSON,  
President Senate.

Attest:

GEO. S. EVANS, Secretary Senate.

## IN SENATE.

TUESDAY, March 31, 1857.

Senate met pursuant to adjournment.

The President in the chair.

Roll called.

Journal of yesterday read and approved.

Leave of absence was granted to Messrs. Wilson and Cosby, for the day.

Mr. Mandeville in the chair.

Mr. Crandall made the following report:

*Mr. President :*

Your Committee on Enrolled Bills have presented to the Governor, for his approval, an Act to authorize the Executrix and Executors of the last will and testament of William D. M. Howard, deceased, to sell real estate of the testator at private sale.

Also, an Act to amend an Act entitled an Act concerning the office of County Treasurer, passed March 27th, 1850.

Also, an Act to authorize the execution of a bond, under an Act funding the debt of the City of San Francisco, passed May 7th, 1855.

Also, an Act recommending to the electors to vote for or against a Convention to revise and change the Constitution of this State.

Also, an Act to provide for the payment of the debts of the Counties of San Luis Obispo and Santa Barbara.

Also, an Act supplementary to an Act entitled an Act concerning the Board of Supervisors of Placer County.

Also, an Act to guard against the destruction of property by fire by means of sparks from the chimneys of steamboats navigating certain waters of this State.

Also, an Act concerning persons under sentence of imprisonment.

Also, an Act to provide for the payment of the indebtedness of the County of Shasta, contracted prior to the first day of March, A. D. 1857.

Also, an Act to legalize certain records in the County of Solano.

Also, an Act amendatory of, and supplementary to, an Act entitled an Act to create the office of State Printer, and define the duties and compensation thereof, and to provide for the time and manner of election.

Also, an Act to amend an Act concerning Judges of the Plains, and defining their duties.

Also, an Act to establish the County Seat of Tehama County.

Also, an Act granting certain swamp and overflowed lands to the City of Sacramento.

Also, an Act concerning the official bonds of Justices of the Peace in the First Judicial District

Also, an Act concerning the revenue of the County of Calaveras.

D. CRANDALL,  
Chairman.

Mr. Coffroth made the following report:



*Mr. President :*

The special committee of the Tuolumne delegation, to whom was referred Senate Bill No. 184, an Act to incorporate the Town of Columbia in the County of Tuolumne, have had the same under consideration and recommend its passage without amendments.

JAS. W. COFFROTH,  
J. W. MANDEVILLE.

On motion of Mr. Coffroth, the rules were suspended, and the bill considered.

On motion, the rules were further suspended, the bill considered, engrossed, read a third time and passed.

Mr. Ferguson of Sierra, made the following report :

*Mr. President :*

The Special Committee to whom was referred Assembly Bill No. 232, an Act to amend an Act to define the time when the county officers of Sierra County shall enter upon the discharge of their duties, having had the same under consideration, would respectfully report the bill back and recommend its passage.

W. T. FERGUSON.

Report received and bill placed on calendar.

The following message was received from His Excellency the Governor:

EXECUTIVE DEPARTMENT,  
Sacramento, March 28, 1857. }

*To the Senate of California :*

I have this day approved an Act to authorize the Executrix and Executors of the last will and testament of Wm. D. M. Howard, deceased, to sell real estate of the testator at private sale.

Also, an Act amendatory of and supplementary to an Act to establish, support and regulate common schools, and to repeal former Acts concerning the same, approved May 3d, 1855.

J. NEELY JOHNSON.

The following message was received from the Assembly:

*Mr. President :*

I am directed to inform the Senate that the Assembly, on the 28th inst., passed Assembly Bill No. 145, an Act to repeal an Act to authorize the Judges of the Supreme Court to employ a Secretary, approved April 30, 1855.

Also, Assembly Bill No. 311, an Act to amend an Act entitled an Act to regulate proceedings in criminal cases, passed May 1st, 1851, approved March 22, 1856.

Also, has non-concurred in Senate amendments to Assembly Bill No. 254, an Act concerning delinquent taxes in certain counties of this State; and has appointed Messrs. Brent, Watkins and Shepard, Committee of Free Conference,

and respectfully ask the appointment of a similar committee on the part of the Senate.

Also, concurred in Senate substitute for Assembly concurrent resolution relative to a certain mail route in El Dorado County.

March 30, 1857.

W. CAMPBELL,  
Clerk of Assembly.

Assembly Bill No. 145, was read first and second times and referred to the Judiciary Committee.

Assembly Bill No. 311, was read first and second times.

On motion of Mr Walkup, the rules were suspended and the bill considered in Committee of the Whole.

After some time so spent in considering the bill, the committee rose and reported it back to the Senate with amendments.

In Senate. Amendments of the Committee of the Whole concurred in, and on motion of Mr. Walkup, the bill was laid on the table.

Assembly Bill No. 254. On motion, a Committee of Free Conference was appointed on part of the Senate to consider the bill, consisting of Messrs. Ashley, Walkup and Bynum.

The following message was received from the Assembly:

*Mr. President :*

I am directed to inform the Senate that the Assembly yesterday amended and passed Senate Bill No. 100, an Act providing for the construction of Canals and for draining and reclaiming certain Swamp and Overflowed Lands in Tulare Valley, and ask the concurrence of the Senate in said amendments.

Also, passed Assembly Bill No. 334, an Act supplementary to an Act entitled an Act concerning the Eighth, Ninth, and Fifteenth Judicial Districts of this State, and the Judges thereof.

March 31, 1857.

W. CAMPBELL,  
Clerk of Assembly.

Senate Bill No. 100 was considered, and amendments of Assembly concurred in.

Assembly Bill No. 334 was read first and second time, and on motion of Mr. McGee, the rules were further suspended, and the bill read a third time and passed.

#### SPECIAL ORDER OF THE DAY.

Assembly Bill No. 69, and Senate Bills Nos. 106 and 163, with the report of the Committee on Public Lands, made on the 27th inst. Report of Committee adopted, and Senate Bill No. 163, an Act amending and supplemental to the Act entitled an Act to provide for the disposal of the 500,000 acres of Land granted to the State by act of Congress, passed May 3, 1852, was considered in Committee of the Whole, and reported back with amendments.

In Senate. On motion of Mr. Coffroth, the bill, with amendments, were made the special order of the day for Thursday, April 2d, 1857, at half-past ten o'clock A. M.

On motion of Mr. Norman, the Senate took a recess of fifteen minutes.

The Senate re-assembled at the appointed time.

The President presiding.

Roll called. Absent, Messrs. Cosby, De La Guerra, Waite and Wilson, by leave.

The President announced that all legislative and executive business was suspended, and that the Senate was now organized as a High Court of Impeachment, for the trial of George W. Whitman, Controller of State.

Whereupon the Secretary of the Senate notified the Assembly of the organization of the Senate as a Court of Impeachment, and the Sergeant-at-Arms made proclamation of the same at the door of the Senate, in accordance with the rules.

### HIGH COURT OF IMPEACHMENT.

Counsel for defendant and Managers appearing, and being ready to proceed, Mr. Hall, on the part of Examiners, presented the following protest and motion which was received, read, and placed on file ; to wit :

“ Respectfully and firmly protesting against the ruling of this High Court of Impeachment, sitting as the tribunal of final resort, to investigate the political offences of G. W. Whitman, Controller of State, charged with misdemeanors in office, whereby the Board of Managers, appointed by the Assembly to conduct said impeachment for themselves and the name of people of this Commonwealth, were prohibited from examining one E. A. Rowe, charged in said Articles of Impeachment with complicity with said Whitman, Hughson and others. Now we respectfully and earnestly recommend to the consideration of this High Court, Articles First and Sixth of the Articles of Impeachment, to show—First, that by reason of the conduct of said Whitman, the Board of Examiners, created by virtue of the Act to provide for the better Protection of the Treasury, passed April 16th, 1856, were prevented from performing their duties, and did not, as required by said Act, make periodical examinations of the offices of Controller and Treasurer of State, whereby said Whitman allowed large sums of money to be illegally abstracted from the Treasury ; and since, by reason of the obstacles imposed by said Whitman to prevent said Board of Examiners from examining the books of his office, large sums of money were illegally abstracted from the Treasury, which sums of money are now supposed to be in the possession or control of said Rowe. Second : To show that Hughson, a clerk in said Controller's office, at divers times, as specified in Article Sixth, did, by collusion with said Rowe and others, use and apply said sums of money so illegally abstracted from the Treasury, for the purchase and substitution of Controller's warrants instead of money in the office of the State Treasurer. Now, therefore, do we move this High Court to recall said E. A. Rowe, that he may be examined with regard to the money that he may have drawn from the State Treasury for the period from and after the passage of said Act to provide for the better Protection of the State Treasury.”

G. D. HALL,  
JNO. C. BURCH,  
G. W. SWEZY.

Objection being made on the part of the defense to the motion incorporated in the above protest, the roll was called by the Secretary and the motion overruled by the following vote:

AYES.

Messrs. Carpenter, Crandall, Fiske, Johnson of El Dorado, Mandeville, McGee and Norman—7.

NOES.

Messrs. Ashley, Bell, Burnett, Bynum, Chase, Coffroth, Dosh, Ferguson of Sierra, Goodwin, Johnson of Sacramento, Merritt, Mesick, Shaw, Soule, Sullivan, Taliaferro, Walkup and Woodworth—18.

Mr. McCallum declined voting.

Mr. Gilbert Griswold was then called on part of the State and sworn by the Secretary of Senate, examined and cross-examined.

Mr. Mesick in the chair.

The following question was asked by the managers:

"State what knowledge you have of any instructions or advice given by Whitman to Hughson to leave the State?"

Objections being made by defendant's counsel, the roll was called by the Secretary, and question ordered to be put, by the following vote:

AYES.

Messrs. Ashley, Bell, Burnett, Bynum, Carpenter, Chase, Crandall, Dosh, Ferguson of Sierra, Fiske, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, McGee, Merritt, Norman, Shaw, Soule, Sullivan, Walkup and Woodworth—22.

NOES.

Messrs. Goodwin and Taliaferro—2.

Mr. Mesick declined voting.

President in the chair.

On motion, the Court adjourned until 12 o'clock to-morrow.

IN SENATE.

Mr. Coffroth in the chair.

Mr. Merritt, in accordance with previous notice, introduced a bill entitled an Act concerning the County Treasurer of Fresno County.

Read first and second times.



Mr. Merritt moved to suspend the rules and consider the bill engrossed.

After debate, Mr. Taliaferro moved the previous question.

Put and lost.

Upon which, Mr. Merritt withdrew his motion to suspend the rules.

On motion, the bill was referred to the Committee on Finance, with instructions to report on day after to-morrow.

Mr. Chase introduced a bill entitled an Act to create a debt against the State of California, for the purpose of paying certain meritorious claims against the State and to provide ways and means therefor.

Read first and second times and referred to Committee on Public Debt.

Mr. Crandall, Chairman of the Enrolling Committee, made the following report:

*Mr. President :*

Your Committee on Enrollment have examined and found correctly enrolled an Act concerning official and other bonds.

Also, an Act to amend and supplemental to an Act authorizing the formation of corporations for the construction of Plank and Turnpike Roads.

Also, an Act to define the powers and duties of the Board of Supervisors of the City and County of San Francisco, in certain cases.

Also, Senate concurrent resolution relating to school lands.

CRANDALL,  
Chairman.

Mr. McGee introduced a bill for an Act concerning the offices of Assessor and Tax Collector, in Butte County, which was read first and second time and referred to the Judiciary Committee.

Mr. Shaw introduced a bill for an Act to obtain information from certain officers in this State, and to compel the production thereof.

Read twice and referred to the Judiciary Committee.

On motion of Mr. Norman, Assembly Bill No. 303, an Act to define the boundary lines of San Bernardino County, was taken from the calendar, read third time and passed.

On motion of Mr. McCallum, Senate Bill No. 173 was taken from the table and made the special order of the day for to-morrow at 10½ o'clock, A. M.

Mr. McGee moved to adjourn.

Lost.

GENERAL FILE.

Assembly Bill No. 278, an Act to amend an Act entitled an Act to provide for the Formation of Corporations for Certain Purposes, passed April 18, 1853,

was considered in Committee of the Whole, reported back, and in Senate was indefinitely postponed.

Senate Bill No. 181, an Act authorizing Francisco De la Guerra and others, to build and construct a turnpike or gravel road from the Ranch of Simi, in the County of Santa Barbara, to the plain of San Fernando, in the County of Los Angeles, was laid on the table.

Assembly Bill No. 211, an Act to authorize the trustees of the town of Eureka, in Humboldt County, to dispose of the proceeds arising from the sale of town lots in said town, was laid on the table.

Senate Bill No. 127, an Act to amend an Act entitled an Act to provide for the incorporation of railroad companies, was indefinitely postponed.

Assembly Bill No. 98, and Senate Bill No. 182, together with the report of the select committee, was considered.

On motion, Senate Bill No. 182, an Act to reduce and establish the per diem of members, officers and attaches of the Legislature and the salaries of officers, was substituted for Assembly Bill No. 98, and considered in committee of the whole.

After some time spent in consideration of the bill the committee rose, reported progress, and asked leave to sit again.

### IN SENATE.

Mr. McCallum moved to adopt the amendments of committee.

Mr. Taliaferro moved the previous question.

Lost.

Mr. McCallum moved to make the bill the special order for Thursday, April 2d, 1857.

On motion of Mr. Mandeville, the Senate adjourned.

Approved April 1st, 1857.

S. H. DOSH,  
President Senate pro tem.

Attest:

GEO. S. EVANS, Secretary Senate.

## IN SENATE.

WEDNESDAY, April 1st, 1857.

Senate met pursuant to adjournment.

President *pro tem.* in the chair.

Roll called.

There being no quorum present, Mr. Carpenter moved a call of the Senate.

Carried.

A sufficient number of members appearing within the bar of the Senate, on motion of Mr. Mandeville, the call was suspended.

Journals of yesterday read and approved.

## REPORTS OF COMMITTEES.

Mr. Ashley, Chairman of the Judiciary Committee, made the following report:

*Mr. President :*

A majority of the Judiciary Committee beg leave to report an Act to authorize the sale of certain Real Estate by Guardians, and recommend its passage.

D. R. ASHLEY,  
Chairman.

Report accepted, and with bill, placed on calendar.

Mr. Ashley, Chairman of the Judiciary Committee, made the following report:

*Mr. President :*

The Judiciary Committee have had under advisement Assembly Bill No 145, an Act to repeal an act entitled an Act to authorize the Judges of the Supreme Court to employ a Secretary, approved April 30th, 1855, beg leave to report the same back to the Senate and recommend its passage.

Also, Senate Bill No. 188, an Act to legalize acknowledgments taken by the Recorder and Deputy Recorder of Monterey County, and recommend its passage.

Also, Assembly Bill No. 45, an Act to amend an act entitled an Act to regulate the Fees of Office, approved April 10, 1855, and recommend its indefinite postponement.

Also, Senate Bill No. 142, an Act to prohibit Noisy and Barbarous Amusements, and opening Places of Business on Sunday. Your Committee have amended the said bill in accordance with the instructions of the Senate by striking out the word "concert," and recommend its passage as amended.

D. R. ASHLEY,  
Chairman.

Report accepted, and with bills, placed on calendar.

Mr. McGee made the following report:

*Mr. President :*

The Special Committee to whom was referred Senate Bill No. 187, granting the right of way to H. B. Lathrop and others to bridge Feather River at Oroville, report the same back for the consideration of the Senate.

JNO. B. MCGEE,  
Committee.

The following messages were received from His Excellency the Governor :

EXECUTIVE DEPARTMENT,  
Sacramento, March 31st, 1857. }

*To the Senate of California :*

I have this day approved an Act to establish the County Seat of Tehama County.

J. NEELY JOHNSON.

EXECUTIVE DEPARTMENT,  
Sacramento, March 31st, 1857. }

*To the Senate of California :*

I have this day approved the following Acts:

An Act to grant certain Swamp and Overflowed Lands to the City of Sacramento.

Also, an Act to legalize certain Records in the County of Solano.

Also, an Act recommending to the Electors to vote for or against a Convention to revise and change the Constitution of this State.

Also, an Act to guard against the destruction of property by fire by means of sparks from the chimneys of steamboats navigating certain waters of this State.

Also, an Act to amend an Act concerning Judges of the Plains, (Jueces del Campo,) and defining their duties, approved April 25th, 1857.

Also, an Act to amend an Act entitled an Act concerning the office of County Treasurer, passed March 27th, 1850.

Also, an Act to provide for the payment of the debts of the Counties of San Luis Obispo and Santa Barbara.

Also, an Act concerning persons under sentence of imprisonment.

Also, an Act to provide for the payment of the indebtedness of the County of Shasta, contracted prior to the first day of March, A. D. 1857.

Also, an Act concerning the official bonds of Justices of the Peace in the First Judicial District.

Also, an Act supplementary to an Act entitled an Act concerning the Board of Supervisors of Placer County, approved February 4th, 1857.

Also, an Act to authorize the execution of a bond under an Act for funding the debt of the City of San Francisco, passed May 7th, 1855.

Also, an Act concerning the revenue of the County of Calaveras.

J. NEELY JOHNSON.

The following messages were received from the Assembly:



*Mr. President :*

I am directed to inform the Senate that the Assembly, on yesterday, March 31st, passed the following Assembly bills:

No. 257, an Act authorizing the location and patenting of School Lands.

No. 280, an Act to provide for the incorporation of Yreka City.

No. 298, an Act to repeal an Act entitled an Act concerning Judges.

No. 295, an Act concerning the office of Assessor in the County of Butte.

No. 243, an Act to amend an Act entitled an Act to incorporate Crescent City.

No. 307, an Act amendatory of an Act entitled an Act to provide for the sale of the Swamp and Overflowed Lands belonging to this State.

No. 220, an Act to regulate fees in office in the County of Yuba.

Also, passed Assembly Bill No. 322, an Act concerning the Board of Supervisors of Los Angeles County.

W. CAMPBELL,

Clerk of Assembly.

April 1, 1857.

Assembly bill No. 257 was read twice and referred to Committee on Education.

Assembly bill No. 280 was read twice and referred to Siskiyou Delegation.

Assembly bill No. 298 was read twice and referred to Judiciary Committee.

Assembly bill No. 295 was read twice and referred to Butte Delegation.

Assembly bill No. 243 was read twice and referred to Siskiyou Delegation.

Assembly bill No. 307 was read twice and referred to Committee on Public Lands.

Assembly bill No. 220 was read twice and referred to Yuba Delegation.

Assembly bill No. 322 was read first and second times. Rule further suspended. Read third time and passed.

On motion of Mr. Cosby, Messrs. Johnson, of El Dorado, and Shaw, were added to the Special Committee to whom was referred Senate bill No. 151, an Act to amend an Act entitled an Act defining the Rights of Husband and Wife, passed April 17, 1850.

The hour having arrived for the special order of the day, Senate bill No. 173, an Act to provide for a Revenue for the Support of the Government of this State, was taken up.

On motion of Mr. Walkup, the bill was laid on the table.

On motion of Mr. Walkup, Assembly bill No. 311, an Act to amend an Act entitled an Act to regulate Proceedings in Criminal Cases, passed May 1, 1851, approved March 22, 1856, was taken from the table, considered, read third time and passed.

On motion of Mr. Ashley, Senate bill No. 189, an Act concerning County

Auditors, was taken up, considered, and ordered engrossed, and read third time.

Mr. Ashley moved to reconsider the vote ordering the bill engrossed.

Carried. Rules suspended, bill considered engrossed, read third time, and, on motion of Mr. Norman, laid on the table.

On motion of Mr. Melony, Assembly bill No. 256, an Act to authorize the Board of Supervisors of San Joaquin County to appropriate money, was taken up, read third time and passed.

Mr. Cosby moved a suspension of the rules that he might make a motion.

Lost.

On motion of Mr. Walkup, the special order for the day, Senate Bill No. 173, was taken from the table and considered in Committee of the Whole.

After some time spent in considering the bill, the committee rose and reported it back.

In Senate, on motion the Senate took a recess for five minutes.

The recess having expired the Senate was again called to order.

Mr. Ashley, by leave, made the following report:

*To the Senate and Assembly :*

The Committee on Free Conference on an Act concerning delinquent taxes in certain counties of this State, have agreed, report and recommend, that the Assembly concur in the amendments made by the Senate, except the second one, and that a proviso be appended to section second as follows:

*Provided*, That the delinquent county taxes in the Counties of Yolo, Contra Costa, Los Angeles, Monterey, San Luis Obispo, Nevada, Mariposa, Merced, Santa Barbara and Calaveras, shall be paid in cash.

In first line second section strike out "March" and insert "May."

D. R. ASHLEY,

Chairman Senate Committee.

J. LANCASTER BRENT,

Chairman Assembly Committee.

W. W. SHEPARD,

JOSEPH S. WATKINS.

Report of Committee was adopted.

Mr. Crandall, Chairman of the Committee on Enrolled Bills, made the following report:

*Mr. President :*

Your Committee on Enrollments have presented to the Governor for his ap-

proval, an Act to limit the time for presentation of claims against counties, and for receiving payment for the same.

Also, an Act to amend and supplemental to an Act to authorize the formation of corporations for the construction of plank and turnpike roads.

Also, an Act to define the powers and duties of the Board of Supervisors of the City and County of San Francisco, in certain cases.

Also, an Act concerning official and other bonds.

Also, Concurrent Resolution concerning School Lands.

D. CRANDALL.

On motion of Mr. Ashley, Senate Bill No. 189, an Act concerning County Auditors, was taken from the table and considered.

Mr. Norman offered the following amendment:

*Provided*, That nothing in this Act shall conflict with or invalidate the provisions of an Act concerning the revenue of the County of Calaveras, passed March, A. D. 1858, to come in at the end of the first section, which was adopted.

Mr. Shaw offered the following amendment to come in at the end of the amendment of Mr. Norman.

"Nor shall this act apply to the City and County of San Francisco."

Which was adopted.

On motion of Mr. Ashley, the rules were suspended, bill considered engrossed, read third time and passed.

The hour of 12 o'clock having arrived, the President announced all executive and legislative business suspended, and that the Senate was now organized as a High Court of Impeachment, for the trial of George W. Whitman, Controller of State.

Whereupon the Secretary of the Senate notified the Assembly of the organization of the Senate as a Court of Impeachment, and the Sergeant at Arms made proclamation of the same at the door of the Senate, in accordance with the rules.

Messrs. Waite, De la Guerra and Melony, absent.

The managers and counsel for the defendant appearing, the counsel for the defendant presented the following order:

### HIGH COURT OF IMPEACHMENT.

*People of the State vs. G. W. Whitman, Controller of State.*

The defendant above named moves this High Court that there be no further postponement of the above entitled suit except upon affidavit of the Board of Managers showing the materiality of the evidence, and that the witness by whom they propose to make such proof can be obtained and brought before this Court within a reasonable time.

G. W. WHITMAN,

By his counsel, EDWARDS, PERLEY, WHITMAN and MESICK.

Which was rejected by the following vote:

AYES.

Messrs. Coffroth and Mesick—2.

NOES.

Messrs. Bell, Bynum, Carpenter, Chase, Crandall, Dosh, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, McGee, Merritt, Norman, Shaw, Soule, Sullivan, Taliaferro, Walkup, Wilson and Woodworth—23.

The following message were received from the Assembly :

*Mr. President :*

I am directed to inform the Senate sitting as a High Court of Impeachment on the trial of G. W. Whitman, that the Assembly on to-day adopted the following resolution relative to the trial of said G. W. Whitman:

*Resolved*, by the Assembly, That the Senate, as the High Court of Impeachment, be requested to postpone the trial of G. W. Whitman on behalf of the Assembly prosecuting by their managers, until such time as the attendance of one Willis and W. T. Wallace, witnesses in said case, may be procured upon attachment to testify on behalf of the people, and that such postponement be granted without requiring the managers to disclose the facts expected to be proved by said witnesses.

W. CAMPBELL,

Clerk Assembly.

Received and placed on file.

Mr. Merritt moved that the Court adjourn until to-morrow at 12 o'clock, whereupon, objection being made, the Secretary called the roll, and the Court adjourned until 12 o'clock to-morrow by the following vote:

AYES.

Messrs. Bell, Burnett, Bynum, Carpenter, Chase, Coffroth, Crandall, Dosh, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, McGee, Merritt, Mesick, Norman, Shaw, Soule, Sullivan, Taliaferro, Walkup, Westmoreland, Wilson, Woodworth—27.

#### IN SENATE.

Mr. Merritt in the chair.

On motion of Mr. Walkup, Senate bill No. 173, an Act to provide Revenue for the Support of the Government of this State, was again considered in Committee of the Whole. After some time so spent, the Committee rose, reported progress, and asked leave to sit again.

In Senate—On motion of Mr. Bell, the Senate took a recess of ten minutes.

The recess having expired, the Senate was called to order by Mr. Merritt,



and the consideration of the Revenue bill was resumed in Committee of the Whole. After a long time spent in consideration of the same, the Committee rose, reported progress, and asked permission to sit again at half-past ten o'clock, to-morrow, A. M.

In Senate--The following message was received from the Assembly :

*Mr. President:*

I am directed to inform the Senate that the Assembly have this day passed Senate bill No. 172, an Act entitled an Act to grant the right to construct a Turnpike Road between the town of Columbia and city of Sonora, in the county of Tuolumne, with an amendment, and ask the concurrence of the Senate in the same.

April 1, 1857.

W. CAMPBELL,  
Clerk of Assembly.

Senate bill No. 172 was placed on the calendar.

The following message was received from the Assembly:

*Mr. President :*

The Assembly have this day passed Assembly bill No. 347, an Act in relation to suits brought on bonds and obligations in favor of the State.

Also, have adopted a resolution relative to the apprehension of W. Willis, a recusant witness, and ask the concurrence of the Senate.

April 1, 1857.

J. W. SCOBEEY,  
Assistant Clerk.

Assembly resolution relative to the apprehension of W. Willis, was adopted by the following vote, upon a call of the ayes and noes by Messrs. Norman, Fiske and Melony :

#### AYES.

Messrs. Ashley, Bell, Carpenter, Chase, Cosby, Crandall, Ferguson of Sierra, Fiske, Johnson of El Dorado, Mandeville, Melony, Mesick, Norman, Sullivan, Taliaferro, Walkup, Westmoreland, Wilson and Woodworth—19.

#### NOES.

Messrs. Burnett, Dosh, Goodwin, Johnson of Sacramento, Merritt and Soule—6.

Messrs. McCallum and Shaw declined voting.

Mr. Fiske gave notice that on to-morrow he would move a reconsideration of the vote on passage of the resolution.

On motion of Mr. Mandeville, the Senate adjourned.

Approved April 2d, 1857.

R. M. ANDERSON,  
President Senate.

Attest:

GEO. S. EVANS, Secretary Senate.

## IN SENATE.

THURSDAY, April 2, 1857.

Senate met pursuant to adjournment.  
 The President in the chair.  
 Roll called.  
 Journals of yesterday read and approved.

## REPORTS OF COMMITTEES.

Mr. Johnson of Sacramento, Chairman of Finance Committee, made the following report:

*Mr. President :*

Your committee to whom was referred Senate Bill No. 194, an Act concerning the County Treasurer of the County of Fresno, have had the same under consideration, and have instructed me to report the bill back to the Senate, with the following amendments:

Amend the title so as to read "An Act concerning County Treasurers."

Amend section first so as to read:

"SECTION 1. The Treasurer of State is hereby authorized and directed to receive from the County Treasurers of this State, gold dust, at the rate of seventeen dollars per ounce, collected by them prior to the first day of March, 1857."

Recommending the passage of the bill, as amended.

JOSIAH JOHNSON,  
 Chairman.

On motion of Mr. Merritt, the rules were suspended, bill considered, amendments of committee adopted, considered engrossed, read third time and passed.

Mr. Merritt, of the Committee on Mines and Mining Interests, made the following report:

*Mr. President :*

The undersigned, a majority of the Committee on Mines and Mining Interests, to whom was referred Senate Bill No. 4, an Act for the better protection of Mining Interests, have had the same under consideration, and beg leave to report the same back to the Senate, and recommend its rejection.

The Committee have come to this conclusion after mature consideration, believing, as we do, that the passage of the Act proposed could not possibly work any amount of good, and will doubtless work great wrong. The bill proposes to make that a misdemeanor, which by common law is a simple trespass. Cases which would doubtless arise under this Act, would necessarily, in some degree, involve the question of right to possession of each mining claim from which gold was charged to be taken. The action being a criminal one, would give the party, allowing that he or they were injured, the right to testify on behalf of the State, and thus establish a right, or seeming right, to that of which the title was disputed. This, alone, would work great wrong in almost every instance.

Parties who had disputes and contests concerning titles to claims, instead of determining those rights by a civil action, would resort to criminal actions, thereby—aside from the wrong worked to individuals—entailing large and needless costs and expenses upon the different mining counties of this State.

The policy of this State, heretofore, has been to legislate as little as possible concerning the mines; and such policy has worked well, and to the entire satisfaction of our mining population, so far as your committee are advised. Therefore, believing the Act to be unwise, injudicious, unnecessary and uncalled for, and dangerous in its operation and tendencies, respectfully recommend its rejection.

All of which is respectfully submitted.

MERRITT,  
MANDEVILLE,  
W. T. FERGUSON,  
DOSH,  
WALKUP,

Majority of the Committee on Mines and Mining Interests.

Mr. McCallum in the chair.

Mr. Johnson of Sacramento, Chairman of the Committee on Finance, reported, verbally, Assembly Bill No. 166, an Act to provide revenue for the support of the Government of this State, from a tax to be levied and collected from foreign and inland bills, and other matters,—recommending that the same be printed.

On motion, the report was adopted and the bill referred to Finance Committee.

The following message was received from the Assembly :

*Mr. President :*

The Assembly on the 30th March passed Assembly bill No. 328, an Act granting David Seely and others the right to collect certain tolls in San Bernardino County.

Also, on the 31st March, passed Senate bill No. 180, an Act concerning certain Fees paid by the County of Placer.

J. W. SCOBAY,  
Assistant Clerk.

April 1, 1857.

Assembly bill No. 328 was read twice and referred to San Bernardino Delegation.

Assembly bill No. 347, an Act in relation to suits brought on bonds and obligations in favor of the State, was read first time, rule suspended, read second time, rule further suspended, considered in Committee of the Whole, amended, and reported back.

In Senate—Amendments of Committee of the Whole adopted, read third time and passed.

Mr. Coffroth presented the following resolution :

*Resolved*, That the Governor be and is hereby requested to send into the Senate, on or before Saturday next, the names of all such persons appointed to office by him during the recess of the Senate, as, by law, have to be passed upon by this body.

Adopted.

Mr. Westmoreland offered the following resolution :

*Resolved*, That the Finance Committee be and is hereby instructed to report, on day after to-morrow, Assembly bill No. 166, and Senate bill No. 122, relating to a Stamp Tax.

Adopted.

The hour having arrived for the special order of the day, Senate bill No. 173, an Act to provide Revenue for the Support of the Government of this State, was considered in Committee of the Whole. After some time spent in consideration of the bill, the Committee rose, reported progress, and asked leave to sit again.

On motion of Mr. Soule, the Senate took a recess of five minutes.

The recess having expired, the Senate reassembled.

President in the Chair.

Roll called. There being no quorum present, Mr. Chase moved a call of the Senate.

Sustained.

Several members appearing, on motion, the call was suspended.

Absent—Messrs. Cosby, De La Guerra, Ferguson of Sacramento, Ferguson of Sierra, Melony and Waite.

There being a quorum present, Mr. Crandall made the following report:

*Mr. President:*

Your Committee on Enrollment have examined and found correctly enrolled an Act to provide for the construction of Canals and for draining and reclaiming certain Swamp and Overflowed Lands in Tulare Valley.

Also, an Act concerning certain Fees paid by the county of Placer.

D. CRANDALL.

The President announced all Executive and Legislative business suspended, and that the Senate was now organized as a High Court of Impeachment for the trial of George W. Whitman, Controller of State.

Whereupon, the Secretary of the Senate notified the Assembly of the organization of the Senate as a Court of Impeachment, and the Sergeant-at-Arms made proclamation of the same at the door of the Senate, in accordance with the rules.



The managers, and counsel for the defendant appeared and declared themselves ready to proceed with the trial.

On motion of Mr. McCallum, it was—

*Ordered by the Court*, That W. T. Wallace be allowed to make an explanation to the Court of the cause of his absence as a witness.

He having done so to the satisfaction of the Court, the Court made the following order, presented by Mr. McCallum:—

*Ordered*, That Wm. T. Wallace be discharged from the attachment issued against him as a witness in the impeachment case of G. W. Whitman, Controller.

W. T. Wallace was called by the managers, sworn by the Secretary of the Senate, examined and cross-examined.

During the examination in chief, the following question was asked:

Give the contents of McNiel's letter to you requesting that the publication of your letter to Whitman might be withheld, which was objected to by the defendant's counsel, and the objection overruled by the following vote:

#### AYES.

Messrs. Ashley, Bell, Bynum, Carpenter, Chase, Crandall, Dosh, Fiske, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, McGee, Merritt, Mesick, Norman, Shaw, Soule, Sullivan, Walkup, Wilson and Woodworth—22.

#### NOES.

Messrs. Coffroth and Westmoreland—2.

Messrs. De la Guerra and Goodwin declined voting.

So the question was put.

Mr. Coffroth in the chair.

B. B. Redding was called upon the part of the State, sworn, examined and cross examined.

James Allen was called upon the part of the State, sworn, examined and cross examined.

During the cross examination the following question was put to the witness, which was objected to by the managers.

Did not Col. Whitman, in some one or more of these conversations to which you have referred as having been held by him with you, also state that he thought it advisable and for the interest of the State that the public action of the letter of Attorney General Wallace to him, should be withheld until it

should be ascertained whether the interest which the State owned had been paid in July at New York.

There being no objection by the Court the chair ruled the question as being admissible.

So the question was put.

On motion, the Court adjourned until Saturday, 4th inst., 12 o'clock, M.

## IN SENATE.

Mr. Fiske withdrew his notice of reconsideration of the vote on the passage of Assembly concurrent resolution relative to W. Willis, a defaulting witness in the case of impeachment of G. W. Whitman.

Whereupon, on motion, the Senate resumed the consideration of the Revenue bill in Committee of the Whole. After some time spent in consideration of the same, the Committee rose, reported progress, and asked leave to sit again tomorrow, at 11 o'clock A. M.

In Senate. The following message was received from the Assembly:

*Mr. President :*

The Assembly this day passed Senate Bill No. 194, an Act concerning County Treasurers, with amendments, and ask the concurrence of the Senate.

J. W. SCOBEEY, •

April 2d, 1857.

Assistant Clerk.

Senate Bill No. 194—amendments of Assembly concurred in.

The following message was received from the Assembly:

*Mr. President :*

The Assembly on March 30th passed Assembly Bill No. 337, an Act to authorize the Board of Supervisors of Alameda County to levy a Special Tax.

Also, on yesterday, passed Assembly Bill No. 309, an Act relative to the trial of issues of fact joined in the Probate Court.

J. W. SCOBEEY,

April 2d, 1857.

Assistant Clerk.

Assembly Bill No. 337, was read twice and referred to the Alameda Delegation.

Assembly Bill No. 309 was read twice and referred to the Judiciary Committee.

The following message was received from the Assembly:

*Mr. President :*

I am directed to inform the Senate that the Assembly on yesterday passed the following bills:

Senate Bill No. 166, an Act supplementary to an act entitled an Act to apportion the Senatorial and Assembly Districts of this State, passed May 18th, 1853.

Senate Bill No. 48, an Act to authorize the Treasurer of State to issue certain Interest Coupons.

Senate Bill No. 126, an Act supplementary to an act entitled an Act to incorporate the City of Oakland, passed March 25th, 1854.

Senate Bill No. 143, an Act to amend an Act entitled an Act concerning Sheriffs, passed April 29th, 1851, with amendments, and ask the concurrence of the Senate to the same.

W. CAMPBELL,

April 2d, 1857.

Clerk of Assembly.

Senate Bill No. 143 was placed on calendar.

The following message was received from the Governor :

EXECUTIVE DEPARTMENT,

Sacramento, April 2, 1857. }

*To the Senate of California :*

I have this day approved an Act concerning official and other Bonds.

Also, an Act to limit the Time for Presentation of Claims against Counties, and for receiving payment for the same.

Also, an Act amendatory and supplemental to an Act to authorize the formation of Corporations for the construction of Plank and Turnpike Roads, passed May 12, 1853.

J. NEELY JOHNSON.

Mr. Chase moved to adjourn, upon which the ayes and noes were called by Messrs. Chase, Merritt and Fiske, and taken, with the following result :

AYES.

Messrs. Ashley, Bell, Carpenter, Chase, Coffroth, Fiske, Goodwin, Johnson of El Dorado, McGee, Mesick, Norman, Soule, Taliaferro, Wilson and Woodworth—15.

NOES.

Messrs. Bynum, Crandall, Dosh, Johnson of Sacramento, McCallum, Merritt, Shaw and Walkup—8.

Mr. Burnett declined voting.

So the Senate adjourned.

Approved April 3, 1857.

R. M. ANDERSON,

President of the Senate.

Attest:

GEO. S. EVANS, Secretary Senate.

## IN SENATE.

FRIDAY, April 3d, 1857.

Senate met pursuant to adjournment.

The President in the chair.

Roll called

Journals of yesterday read and approved.

Mr. McCallum in the Chair.

On motion of Mr. Mandeville, the rules were suspended and Assembly Bill No. 45, an Act to amend an Act entitled an Act to regulate fees of office, approved April 10th, 1855, was taken up and considered with the report of the Judiciary Committee recommending the indefinite postponement of the bill.

Question on the adoption of the report was put and lost.

On motion, the bill was considered in Committee of the Whole, and having spent some time in considering the bill, the committee rose, reported the same back to the Senate without amendments.

In Senate, Mr. Mandeville moved the previous question, which was sustained.

Question, "Shall the main question be now put," was put and carried.

Mr. Taliaferro moved to reconsider the vote, by which the previous question was sustained.

Mr. Walkup rose to a point of order, that there could be no reconsideration of the vote to sustain the previous question.

The chair ruled the point of order well taken.

The main question being "Shall the bill be read a third time?"

The ayes and noes were demanded by Messrs. Cosby, Merritt and Mesick, and taken with the following result:

## AYES.

Messrs. Ashley, Bynum, Crandall, De la Guerra, Dosh, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Mandeville, McGee, Norman, Taliaferro, Walkup, Westmoreland, Wilson and Woodworth—17.

## NOES.

Messrs. Bell, Burnett, Carpenter, Chase, Cosby, Ferguson of Sacramento, Johnson of El Dorado, McCallum, Merritt and Mesick—10.



Messrs. Shaw, Soule and Sullivan, declined voting.

So the bill was read a third time.

Question being "Shall the bill pass?" the ayes and noes were demanded by Messrs. Fiske, Mandeville and Walkup, and taken with the following result:

**AYES.**

Messrs. Ashley, Bynum, Coffroth, Crandall, De La Guerra, Dosh, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Mandeville, McGee, Merritt, Norman, Shaw, Taliaferro, Walkup, Westmoreland, Wilson and Woodworth—20.

**NOES.**

Messrs. Bell, Burnett, Carpenter, Chase, Cosby, Ferguson of Sacramento, Johnson of El Dorado, McCallum and Mesick—9.

Messrs. Soule and Sullivan declined voting.

So the bill was passed.

Mr. Merritt gave notice that on to-morrow he would move a reconsideration of the vote by which the bill passed.

On motion of Mr. Mandeville, the rules were suspended, and Assembly bill No. 245, an Act amendatory and supplemental to an Act entitled an Act to provide for the Protection of Foreigners, and to define their liabilities and privileges, approved March 30, 1853, was taken up and considered in Committee of the Whole. After some time spent in so considering the bill, the Committee rose and reported it back to the Senate, with an amendment.

In Senate—On motion, the amendment adopted in Committee of the Whole was concurred in.

Bill read a third time and passed.

Mr. Crandall presented the following report :

*Mr. President :*

Your Committee on Enrollment have examined and found correctly enrolled :  
An Act supplementary to an Act entitled an Act to apportion the Senatorial and Assembly Districts of this State.

Also, an Act concerning County Treasurers.

Also, an Act supplementary to an Act entitled an Act to incorporate the City of Oakland.

Also, an Act to authorize the Treasurer of State to issue certain interest coupons.

**D. CRANDALL,**

Chairman.

Mr. Cosby made the following report :

*Mr. President :*

The Committee of Conference upon Assembly bill No. 10, an Act to amend an Act defining the rights of Husband and Wife, passed April 17, 1850, and Senate bill No. 151, being a substitute for Assembly bill No. 10, would respectfully report, and recommend the rejection of the substitute, and that Assembly bill be amended to read as follows, commencing in the tenth line :

*"Provided, That when such decree is rendered on the ground of adultery, the party found guilty thereof shall not be entitled to any portion of the common property, except such portion of the same as he or she may have acquired while the parties were not actually living and cohabiting together."*

And when so amended, they recommend its passage.

JNO. D. COSBY,  
Chairman of Senate Com.  
S. M. JOHNSON,  
WM. J. SHAW,  
Of the Senate.  
R. C. CLARK,  
R. CHENERY,  
Of the Assembly.

Report accepted, and, on motion, adopted; bill read third time and passed.

Mr. Cosby made the following report:

*Mr. President:*

Your Committee, to whom was referred Assembly Bill No. 299, entitled an Act to authorize the Board of Supervisors of Humboldt County to levy a special tax for certain purposes, and to provide for the collection of the same, have had the same under consideration, report the same back, without amendment, and recommend its passage.

JNO. D. COSBY,  
Committee.

Report accepted and bill placed on the calendar.

Mr. Cosby made the following report:

*Mr. President :*

Your Committee to whom was referred Assembly Bill No. 280, entitled an Act to provide for the incorporation of Yreka City, have had the same under consideration, report it back without amendments, and recommend its passage.

JNO. D. COSBY,  
Committee.

Report accepted, and with bill placed on calendar.

Mr. Bynum made the following report:

*Mr. President:*

Your Special Committee, (the Delegation from Napa, Solano and Yolo,) has had under consideration Assembly Bill No. 148, entitled an Act to ascertain the

amount of indebtedness due from the County of Napa to the County of Solano, and provide for the payment of the same, and respectfully report a substitute therefor, and recommend the indefinite postponement of the original bill, and the passage of the substitute.

S. BYNUM,  
Committee.

Report accepted, and the bill with substitute placed on the calendar.

Mr. Shaw, by leave, introduced a bill entitled an Act to fix the time of holding the terms of the District Court of the Twelfth Judicial District, in the City and County of San Francisco.

Read first and second times, and, on motion, the rules were further suspended, bill considered engrossed, read a third time and passed.

The hour for the special order having arrived—

The Senate resumed the consideration of Senate Bill No. 173, an Act to provide revenue for the support of the Government of this State, in Committee of the Whole.

After some time so spent in considering the bill, by unanimous consent the rules were suspended, and the following messages from the Governor were considered as in Senate:

EXECUTIVE DEPARTMENT, }  
Sacramento, April 3d, 1857. }

*To the Senate of California :*

I have this day approved "An Act concerning County Treasurers.

Also, an Act to grant the right to construct a bridge across the Sacramento River, between the City of Sacramento and the Town of Washington, to certain parties therein named.

J. NEELY JOHNSON.

EXECUTIVE DEPARTMENT, }  
Sacramento, April 3d, 1857. }

*To the Senate of California :*

I hereby nominate and appoint Alexander G. Abel, Commissioner of Emigrants for the Port of San Francisco, *vice self*, whose term has expired, and respectfully ask the concurrence of your honorable body in such nomination and appointment.

J. NEELY JOHNSON.

On motion, the message was laid on the table.

EXECUTIVE DEPARTMENT, }  
Sacramento, April 3d, 1857. }

*To the Senate of California :*

I hereby appoint George W. Ryder, Gauger of Wines and Liquors, for the

Port of San Francisco in this State, and respectfully ask the confirmation of the same by your honorable body.

J. NEELY JOHNSON.

On motion, the message was laid on the table.

The committee again resumed the consideration of the Revenue Bill in Committee of the Whole.

After some time spent in considering the bill the Committee rose, reported progress and asked leave to sit again tomorrow at 10½ o'clock.

In Senate, Mr. Crandall made the following report.

*Mr. President:*

Your Committee on Enrollment have presented to the Governor for his approval, an Act concerning County Treasurers.

Also, an Act to authorize the Treasurer of State to issue certain interest coupons.

Also, an Act supplementary to an Act entitled an Act to apportion the Senatorial and Assembly districts of this State.

Also, an Act supplementary to an Act entitled an Act to incorporate the City of Oakland.

Also, an Act concerning certain fees paid by the County of Placer.

Also, an Act to provide for the construction of canals and for draining and reclaiming certain swamp and overflowed lands in Tulare Valley.

D. CRANDALL,  
Chairman.

Mr. Bynum, by leave introduced the following bills :

An Act to authorize the Main Street Wharf Company to build a wharf in the County of Solano, which was read first and second times and referred to the Committee on Commerce and Navigation.

Also, an Act authorizing Charles J. Collins to build a wharf at or near Point Cullbery, in Solano County, which was read first and second time, and referred to the Committee on Commerce and Navigation.

On motion of Mr. Walkup, the Senate adjourned.

Approved April 4th, 1857.

R. M. ANDERSON,  
President of the Senate.

Attest:

GEO. S. EVANS, Secretary of the Senate.



## IN SENATE.

SATURDAY, April 4th, 1857.

Senate met pursuant to adjournment.

The President in the Chair.

Roll called.

Journals of yesterday read and approved.

Leave of absence was granted to Senators Wilson, Melony, and Ferguson of Sacramento for indefinite periods.

Leave of absence was also granted to the Door-Keeper for two days.

Mr. Ashley, Chairman of the Judiciary Committee, made the following report:

*Mr. President :*

The Judiciary Committee, to whom was referred Senate Bill No. 186, an Act to authorize the Executors of Joseph L. Folsom, deceased, to sell Real Estate of their Testator at private sale, have had the same under consideration, report the same back with sundry amendments, and recommend its passage as amended:

Append to section 5: And the executors shall make no conveyance of real estate sold under this Act, nor shall such sale become definitively valid unless the sale be first confirmed and approved by the said Probate Judge.

Append to section 6: But no such compromise or award of arbitrators shall be definitively valid unless approved and confirmed by said Probate Judge.

D. R. ASHLEY,

Chairman.

Report accepted. ,

Mr. Ashley moved to suspend the rules and consider the bill, which was lost, and the bill placed on calendar.

Mr. Johnson, Chairman of the Committee on Finance, asked for further time to report upon Assembly Bill No. 166.

On motion of Mr. Shaw, the committee were granted until Monday next.

Mr. Walkup in the chair.

Mr. Ashley, Chairman of Special Committee, made the following report:

*To the Senate:*

The Special Committee to which was referred several bills relating to the State Debt, have carefully considered the same and find that one is quite lengthy, and its publication will cost too much, since it is believed a much shorter act will accomplish the same desirable object. Another of the bills refused is thought

not to be perfect in itself, as required by the Constitution, because it refers the direction and control of many of its most important provisions to the disposition of various preceding laws now supposed to be unconstitutional; and the other bill referred requires too heavy taxation and imposes a more speedy payment than the resources of the State will permit or the safety of its credit requires, since the most, if not all, of the outstanding claims against the State are technically invalid, they are, legally speaking, on the same footing, and should be disposed of in the same manner.

The wealthiest of States, and those whose credit is best, have frequently, by funding, postponed payment of claims to remote periods, and thus have distributed the burdens over a series of years in such manner that the weight is hardly felt: it is for us to profit by the example, and so distribute the payment of our debts as not to cripple the energies of our young State.

Forced impositions for immediate payment cannot be borne by the people, and the debt presented in that shape seems high and monstrous, while in the form of a funded debt to be paid in portions, year after year, for twenty years, while the State is growing and developing resources not had by any other country, the debt is insignificant, financially considered, for the California of ten years hence.

The claims prior to January 1st, 1857, to be provided for, as we have found after careful inquiry, are:

Outstanding Civil Bonds.....\$3,223,600

Interest that will be due on them when funded under the

Act proposed.....\$169,239

Warrants outstanding January 1st, 1857..... 229,079

Amount, by liberal allowance, due Smiley & Co. on State

Prison claim..... 140,000

McCauley, Mahoney, Boutman & Co., for supplies and trans-

portation ..... 35,000

Total.....\$3,821,292

There are doubtless a few other and small claims not here included,

which \$25,000 will amply recover..... 25,000

Throw in to make round numbers for the amount of bonds to be issued 53,708

And we find the total nominal issue to be.....\$3,900,000

Let this all be funded, payable in 1876, at interest of seven per cent., and the annual interest will be \$273,000.

Since 1853, inclusive, the assessment of taxable property in the State has ranged from ninety-five to one hundred and eleven millions of dollars, yearly, and it is admitted our assessments have been very defective; so we may safely take one hundred millions of taxable property as a basis to begin with.

The construction of a wagon road to the older States, the institution of an overland mail, the probable speedy construction of a Pacific and Mississippi telegraph line, the settlement of land titles, and the almost certainty of a speedy commencement of the great Pacific Railroad, give assurance that the prosperity of this State has hardly sprung into life, and that its wealth and population will increase at least from ten to fifteen per cent. a year. Indeed, the statistics of the nation show a steady increase of *national* population and wealth at the rate of three, four and five per cent. a year; thus our proposition is far from extravagant as to California.

Thirty cents tax on each \$100 of taxable property, gives annually, to pay interest on bonds, an income of \$300,000; which will pay interest, and leave to

absorb bonds, even now, yearly, \$27,000 ; this annual income in five years, will be, per year, \$450,000 ; in ten years, \$600,000 ; and in fifteen years, \$750,000.

Now this income will absorb our debts, as proposed to be funded, in 12 or 15 years, and the tax of 30 cents on the \$100, is lighter than our interest taxes have been in years past.

All that may be received from the so-called Civil Fund is also to pay these bonds; and it is believed the just claim of California to that fund will ultimately be allowed, especially since the allowance will protect the credit and foster the best interest of the western sea coast of the Union.

If this Civil Fund (\$2,968,700) is received, then the bonds under the proposed Act will be speedily canceled.

The Act is to be submitted to the people, and we have confidence in their integrity, their honor, and their desire to save State credit, and to subserve their own best interest as citizens of California.

Mr. Melony, one of the Committee, is now absent, but, as we understand, entirely agrees with us in our report of the proposed Act.

We would recommend the passage of the Act herewith reported, drawn by the Committee.

The Acts referred to us returned without recommendation.

D. R. ASHLEY,  
JOS. WALKUP,  
J. O. GOODWIN,  
S. H. CHASE.

Report accepted, and, with bill, ordered printed and made the special order of the day for Tuesday next, at half-past ten o'clock.

Mr. Mandeville made a verbal report relative to Assembly bill No. 328, an Act granting David Seely and others the right to collect certain tolls in San Bernardino County, which was accepted, the rules suspended, bill read a third time and passed.

Mr. McGee made a verbal report relative to Assembly bill No. 295, an Act concerning the office of Assessor in the County of Butte, which was accepted, the rules suspended, bill read a third time and passed.

The following message was received from the Governor :

EXECUTIVE DEPARTMENT,  
Sacramento, April 4th, 1857. }

*To the Senate of California:*

An Act supplementary to an Act to incorporate the City of Oakland, passed March 25th, 1854, is returned without approval. As a reason for this course, it is quite sufficient to suggest to the Senate that there is no entitling clause in the Act.

J. NEELY JOHNSON.

On motion, the bill was ordered to be re-enrolled, inserting the enacting clause.

The following message was received from the Governor :

EXECUTIVE DEPARTMENT,  
Sacramento, April 4th, 1857. }

*To the Senate of California:*

I have this day approved an Act entitled an Act to authorize the Treasurer of State to issue certain Interest Coupons.

Also, an Act entitled an Act concerning certain Fees paid the County of Placer.

J. NEELY JOHNSON.

The following message was received from the Assembly :

*Mr. President :*

I am directed to inform the Senate that the Assembly yesterday passed Assembly bill No. 269, an Act to provide for the Payment for Vol. V. of the Reports of Supreme Court of California.

Also, Assembly bill No. 292, an Act to extend the time for collecting Taxes in the County of San Mateo.

Also, Assembly bill No. 349, an Act amendatory of an Act to amend an Act entitled an Act amendatory of and supplementary to an Act entitled an Act concerning the Courts of Justice of this State and Judicial Officers, passed April 16, 1855.

Also, Assembly bill No. 355, an Act to change the name of Frederick A. Peesticker to that of Frederick A. Peel.

W. CAMPBELL,  
Clerk of Assembly.

April 4, 1857.

Assembly Bill No. 269 was read first and second times, and referred to the Judiciary Committee.

Assembly Bill No. 292 was read first and second times, and on motion, the rules were suspended, bill read a third time and passed.

Assembly Bill No. 349 was read first and second times, and referred to the Judiciary Committee.

Assembly Bill No. 355 was read first and second times, the rules suspended, read a third time and passed.

The following message was received from the Assembly :

*Mr. President :*

The Assembly, on the 28th March, passed Assembly Bill No. 316, an Act to provide for the sale of the swamp and overflowed lands belonging to this State.

Also, on yesterday, adopted the report of Committee of Free Conference on Assembly Bill No. 254, an Act concerning delinquent taxes in certain counties of this State.

Also, have this day concurred in Senate amendments to Assembly Bill No. 311, an Act to amend an Act entitled an Act to amend an Act entitled an Act to regulate proceedings in criminal cases, approved March 26, 1856.

J. W. SCOBEEY,  
Assistant Clerk.

April 3d, 1857.

Assembly Bill No. 316, was read first and second times and referred to Committee on Public Lands.

The following message was received from the Assembly :

*Mr. President :*

I am directed to inform the Senate that the Assembly, on yesterday, passed the following bills :

Senate Bill No. 8, an Act to legalize certain conveyances.

Senate Bill No 158, an Act to repeal an Act in addition and explanatory of an Act for securing liens to mechanics and others, approved April 19th, 1856, approved on the 4th March, 1857.



Assembly Bill No. 263, an Act to amend an Act entitled an Act to amend an Act to amend an Act entitled an Act to provide for the incorporation of railroad companies, passed April 22d, 1853, and amended May 15th, 1854, and amended April 10, 1855.

Assembly Bill No. 258, an Act to authorize the Treasurer of State to issue a certain interest coupon to Julius Kreyenhagen.

And Assembly Bill No. 217, an Act to authorize the Treasurer of State to issue certain duplicate interest coupons.

W. CAMPBELL,

Clerk of Assembly.

April 4, 1857.

Assembly Bill No. 263, was read first and second times, and referred to the Committee on Corporations.

Assembly Bill No. 258, was read a first and second times and referred to the Committee on Claims.

Assembly Bill No. 217, was read first and second times and referred to the Committee on Claims.

Mr. Burnett introduced an Act supplementary and explanatory of an Act amendatory of and supplementary to an Act entitled an Act to create the office of State Printer, and define the duties and compensation thereof, and to provide for the time and manner of elections, passed May 1, 1854, approved April, 1857, which was read first and second times and referred to the Committee on Printing.

Mr. Shaw offered a concurrent resolution requesting the Governor to correspond with the Secretary of War, the Secretary of the Treasury and others, relative to surveys in the Harbor of San Francisco, which was adopted.

Mr. Merritt, in accordance with previous notice, moved to reconsider the vote by which the Senate passed Assembly Bill No. 45, an Act to amend an Act entitled an Act to regulate fees of office, approved April 10, 1855.

Mr. Mandeville moved to indefinitely postpone the motion to reconsider, which was carried.

#### GENERAL FILE.

Assembly Bill No. 262, an Act making Orders or Warrants drawn on the County Treasurer of Stanislaus County and payable out of the County Revenue receivable for County Dues and Taxes in said County, was read a third time and passed.

Senate Bill No. 130, an Act to preserve the sanctity of Private Reputation and the more effectually to prevent Breaches of the Peace, was made the special order of the day for Monday next, 6th inst., at 12 o'clock.

Assembly Bill No. 27, an Act to authorize certain parties to construct a Wharf in the county of Solano, with amendments, reported by the Committee on Commerce and Navigation.

*“Provided, further, that so much of said strips of overflowed land on each side of said wharf may be used for the erection of projections to said wharf to be used for the landing of freight and passengers and for no other purpose, said projections to be located and built in such convenient manner as will least obstruct a free ingress and egress to said wharf and projections.”*

Amendments of committee adopted, bill read a third time and passed.

Mr. Coffroth in the chair.

Assembly Bill No. 157, an Act to authorize the Governor to remove Insane Persons from the State Prison to the State Insane Asylum. Amendments reported by the Committee on State Hospital, on the 27th March last, adopted, bill considered in Committee of the Whole, reported back without amendments, read a third time and passed.

Assembly Joint Resolution No. 6, asking Congress to donate to the counties in this State which have not nor will not be surveyed, the amount of lands to which said counties would be entitled for school purposes, had the same been made, was read a third time and laid on the table.

On motion of Mr. De La Guerra, Senate Bill No. 181, an Act authorizing Francisco De La Guerra and others to build and construct a Turnpike Road from the Ranch of Simi, in the county of Santa Barbara, to the plain of San Fernando, in the county of Los Angeles, was taken from table, rules suspended, bill considered engrossed, read a third time and passed.

On motion, the Senate took a recess of five minutes to prepare for the trial of Geo. W. Whitman, Controller of State.

Senate reassembled at the time appointed.

The President in the chair.

Roll called.

Absent—Messrs. Ferguson of Sacramento, Goodwin, Melony, Waite and Wilson.

Mr. Crandall moved a call of the Senate.

On motion, further proceedings under the call were suspended.

Mr. Crandall, Chairman of the Committee on Enrollment, made the following report:

*Mr. President:*

Your Committee on Enrollment have examined and found correctly enrolled, an Act supplementary to an act entitled an Act to incorporate the city of Oakland.

Also, an Act to repeal an act in addition and explanatory of an Act for securing Liens to Mechanics and others.

D. CRANDALL,  
Chairman.

The President announced the suspension of all further Executive and Legislative business, and that the Senate was organized as a High Court of Impeachment, for the trial of George W. Whitman, Controller of State, whereupon the Secretary of the Senate notified the Assembly that the Senate was organized as a High Court of Impeachment, and the Sergeant-at-Arms made proclamation of the same at the door of the Senate.

## HIGH COURT OF IMPEACHMENT.

Counsel for the defendant and the managers being present, and the witnesses required on the part of the State still remaining absent, there being no objection, W. W. Taylor was, by consent of counsel, called on the part of the defendant.

After several questions, the managers objected to a further examination, and entered the following:

"Defense propose to examine the witnesses as to settlement made by Whitman with the Treasurer of Tuolumne County. Prosecution object, for the reason that this county or those settlements are not named in the articles of impeachment, and for the reason that the Court refused to permit the prosecution to elicit such facts in support of the articles of impeachment."

After debate, counsel for defendant suspended a further examination of the witness, and, on motion, the Court adjourned until Monday, the 6th inst., at 12 o'clock, M.

## IN SENATE.

The President presiding.

On motion of Mr. Coffroth, the messages of the Governor relative to the appointment of G. W. Ryder, as Gauger of Wines and Liquors, and of Alex. G. Abell, as Commissioner of Immigrants, received yesterday and laid on the table, were taken up.

Mr. Norman offered the following resolution:

*Resolved*, That the appointment of G. W. Ryder, as Gauger of Wines and Liquors at San Francisco, be referred to a special committee of three, and said committee may have power to send for persons and papers.

After much debate, Mr. Walkup moved the previous question.

Not sustained.

Mr. McCallum offered the following as a substitute:

*Resolved*, That a committee of three be appointed by the President of the Senate, to ascertain what cause impelled the Executive to nominate Mr. Ryder for the office of Gauger of Wines and Liquors, for San Francisco. Also whether Mr. L. B. Mizner has not been appointed to fill said officer, and if so, whether he has been guilty of any official misconduct.

*Resolved*, That said committee be, and they are hereby empowered to send for persons and papers.

Rejected.

Mr. Ashley moved to amend the resolution offered by Mr. Norman, by inserting five, instead of three.

Adopted.

The question on the adoption of the resolution, as amended, was put, and resolution adopted.

The Chair announced as the committee under the resolution, Messrs. Norman, Westmoreland, Merritt, Coffroth and McCallum.

Mr. Coffroth moved that the Senate consent to and confirm the appointment of Alex. G. Abell, as Commissioner of Immigrants.

Upon which the roll was called, and the nomination confirmed by the following vote:

AYES.

Messrs. Ashley, Bell, Burnett, Bynum, Carpenter, Chase, Coffroth, Cosby, Crandall, De la Guerra, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Johnson of El Dorado, Mandeville, McCallum, Merritt, Mesick, Norman, Shaw, Sullivan, Taliaferro, Walkup and Westmoreland—25.

Mr. Soule declined voting.

On motion of Mr. Shaw, the Senate proceeded to the consideration of the special order of the day, the Revenue Act, Senate Bill No. 173, which was considered in Committee of the Whole.

After some time so spent in considering the bill, the committee rose and reported progress, and asked leave to sit again on Monday next, the 6th instant, at 11 o'clock.

#### IN SENATE.

On motion of Mr. Dosh, the Senate adjourned.

Approved April 6th, 1857.

R. M. ANDERSON,  
President Senate.

Attest:

GEO. S. EVANS, Secretary Senate.

#### IN SENATE.

MONDAY, April 6th, 1857.

Senate met pursuant to adjournment.

President in the chair.

Roll called.

Journals of Saturday read and approved.

Mr. Mandeville in the chair.



Mr. Johnson of Sacramento, presented the petition of the Supervisors of Sacramento County remonstrating against the passage of a bill providing for the funding of certain warrants of Sacramento County, which was read and referred to the Delegation from Sacramento.

Mr. Bell made the following report:

*Mr. President :*

The Delegation from Alameda, to whom was referred the bill entitled an Act to authorize the Board of Supervisors of the County of Alameda to levy a Special Tax, begs leave respectfully to report that the bill proposes the levying of a special tax of one quarter of one per cent., the money to be used for the erection of a court-house and jail at the county seat. The passage of the bill is recommended by a unanimous vote of the Board of Supervisors of the county; your committee, therefore, recommend that the bill pass.

BELL.

Report accepted, and with bill, placed on calendar.

Mr. Coffroth made the following report:

*Mr. President :*

The Committee on Corporations, to whom was referred Assembly Bill No. 263, an Act amendatory of an Act for the incorporation of Railroad Companies, have had the same under consideration, and recommend its passage.

JAS. W. COFFROTH,

Of the Committee.

Report accepted, and with bill, placed on calendar.

Mr. Johnson of Sacramento, made the following report:

*Mr. President:*

Your committee to whom was referred Senate Bill No. 122, an Act Taxing certain Instruments in Writing, have had the same under consideration, beg leave to report the bill back to the Senate, recommending that it be indefinitely postponed.

JOSIAH JOHNSON,

R. S. MESICK,

JAS. W. COFFROTH.

Report accepted, and with bill, placed on calendar.

Mr. Johnson of Sacramento, made the following report:

*Mr. President:*

Your committee to whom was referred Assembly Bill No. 166, beg leave to report that they have had the same under consideration, made the following amendments, and recommend the passage of the bill as amended.

JOSIAH JOHNSON,

R. S. MESICK.

Amend the first section by striking out in the third line the word "foreign,"

and in 23d line, all after the word "dollar." Strike out the 24th, 25th, 26th, 27th and 28th lines to the word "any;" also, in the 30th line the words "upon any vessel or steamship," and all after the word "dollars," 32d line, down to the word "provided," in 37th line; and in 38th line, strike out the word "bonds."

Strike out section six.

Amend the seventh section by striking out all of the section after the word "aforesaid," in the fourth line.

Amend section eleven, in third line, by striking out the word "four," and inserting the word "two"

Amend section seventeen, first line, by striking out the word "sixteen," and inserting the word "ten."

Report accepted, and, on motion, bill made the special order of the day for Wednesday next, the 8th inst., at 11 o'clock.

Mr. Johnson, of Sacramento, made the following report :

*Mr. President :*

The Joint Committee of Free Conference, to whom was referred Senate bill No. 16, relating to the Swamp and Overflowed Lands of the State, beg leave to report, that they have had the same under consideration, and have reported the bill back to the House, with the following amendments, recommending its passage as amended.

JOSIAH JOHNSON,

D. R. ASHLEY,

Of the Senate.

G. D. HALL,

Of the Assembly.

Amend section five so as to read—

"Section five. If any person or persons, purchasing lands after the passage of this Act, upon a credit of six months, as provided in section three of this Act, shall fail or neglect to pay the principal and interest within the term of six months from the date of the certificate of purchase, such neglect or failure shall work a forfeiture of such lands, and the same shall be resold, as if no purchase had been made; and it shall be the duty of the purchasers to reclaim said lands within two years from the date of their respective purchases."

Report accepted and referred to Committee on Public Lands.

Mr. Johnson, of Sacramento, made the following report :

*Mr. President :*

The Sacramento Delegation, to whom was referred Assembly bill No. 300, an Act amendatory and supplementary to an Act to incorporate the City of Sacramento, passed March, 1851, have had the same under consideration, and beg leave to report the bill back to the Senate, with a substitute therefor, recommending its passage.

JOSIAH JOHNSON.

Report accepted, and, with bill and substitute, placed on calendar.

The following message was received from the Governor :

EXECUTIVE DEPARTMENT,  
Sacramento, April 4, 1857. }

*To the Senate of California :*

I have this day approved an Act to repeal an Act entitled an Act in addition and explanatory of an Act for Securing Liens to Mechanics and others.

J. NEELY JOHNSON.

The following message was received from the Assembly :

*Mr. President :*

I am directed to inform the Senate that the Assembly, on the 2d instant, concurred in Senate amendments to Assembly bill No. 311, an Act to amend an Act entitled an Act to regulate Proceedings in Criminal Cases, passed May 1st, 1851.

Also, on Saturday last passed Assembly bill No. 318, an Act to Fund the Debt of the County of Siskiyou, and Senate bill No. 199, an Act to fix the Time of holding the Terms of the District Court of the Twelfth Judicial District in the City and County of San Francisco.

Also, on Saturday last refused to adopt report of Committee of Free Conference on Assembly bill No. 10, an Act to amend an Act entitled an Act defining the Rights of Husband and Wife," passed April 17th, 1850, and that they have appointed, on part of the Assembly, Messrs. Catlin, Varney and Hall, to compose Committee of Free Conference, and ask a similar appointment on part of the Senate.

W. CAMPBELL,

April 6, 1857.

Clerk of Assembly.

Assembly bill No. 318 was read first and second times and referred to the Delegation from Siskiyou.

The Chair appointed, as a Committee of Free Conference on the part of the Senate, relative to Assembly bill No. 10, Messrs. Ashley, Bell and Walkup.

On motion of Mr. Merritt, Senate bill No. 185, an Act concerning Notaries Public, was taken from the table and placed upon the calendar.

On motion of Mr. Coffroth, Assembly Joint Resolution No. 6, asking Congress to donate to the counties in this State which have not, nor will not be surveyed, the amount of lands to which said counties would be entitled for school purposes, had the same been made—was taken from the table and placed on calendar.

Mr. Woodworth introduced an Act to amend an Act entitled an Act to regulate proceedings in criminal cases, passed May 1st, 1851, which was read first and second times and ordered engrossed and read a third time.

On motion of Mr. Johnson of Sacramento, Senate Bill No. 121, an Act enabling aliens to acquire and hold real property in this State, was made the special order of the day for Thursday next, the 9th inst., at 12 o'clock.

On motion of Mr. Coffroth, Senate Bill No. 163, an Act amendatory and

supplemental to the Act entitled an Act to provide for the disposal of the five hundred thousand acres of land granted to this State by Act of Congress, passed on the 3d of May, 1852, was made the special order of the day for Thursday next the 9th inst., at 11 o'clock.

Mr. Ashley made the following report:

*Mr. President:*

The Committee on Claims, to which was referred an Act to regulate fees in office in certain counties in this State, have considered the same and recommend a few amendments and the passage of the bill as amended.

In section seven line twenty-five, strike out "fifty cents" and insert "one dollar."

In section eight line forty-six, strike out "with traveling fees as on summons."

In section eight line one hundred and three, strike out "five" and insert "four."

Same section line one hundred and nine, strike out "five."

Add section twenty, "The fees of Probate Judge shall be collected and paid on his salary as provided in section thirty-nine, of an Act to regulate fees in office," approved April 10th, 1855.

And jurors shall be paid as provided in section thirty-three of the same Act, and the miscellaneous provisions, and section forty of said Act shall apply to the counties herein named.

Add as Section 21:

"Sec. 21. In the Counties of Monterey, Santa Cruz, Napa, Santa Clara, Sacramento and Sonoma, no fees shall be allowed or paid to witnesses in criminal cases.

D. R. ASHLEY,  
Of the Committee.

Report accepted, and bill placed on calendar.

Mr. Ferguson, of Sacramento, made the following report:

*Mr. President:*

The Committee on Printing, to whom were referred Senate Bill No. 203, entitled an Act supplementary to, and explanatory of, an Act entitled an Act to create the office of State Printer, &c., have had the same under consideration, and respectfully recommend its passage.

W. I. FERGUSON,  
Chairman.

Report accepted and bill placed on calendar.

Mr. Crandall made the following report:

*Mr. President:*

Your Committee on Enrollment presented to the Governor on the 4th inst., for his approval, an Act to repeal an Act entitled an Act in addition and explanatory of an Act for securing liens to mechanics and others.

Also, an Act supplementary to an Act entitled an Act to incorporate the City of Oakland.

D. CRANDALL,  
Chairman.

Mr. Soule made the following report:



*Mr. President :*

The Committee on Commerce and Navigation to whom was referred Senate Bills No. 200 and 201, have had the same under consideration, and recommend the passage of Bill No. 200, and offer a substitute for Bill No. 201, and recommend its passage.

SAM. SOULE,

For the Committee.

Report received and bills placed on calendar.

The hour having arrived for the special order of the day, the Senate resumed the consideration of the Revenue Bill, (Senate Bill No. 173,) in Committee of the Whole.

After some time so spent in so considering the bill, the committee rose, reported progress, and asked leave to sit again after the adjournment of the High Court of Impeachment.

In Senate—The following message was received from the Assembly :

*Mr. President :*

I am directed to inform the Senate that the Assembly has passed the following Assembly bills, viz :

Assembly bill No. 312, an Act to authorize the County of Sacramento to fund the outstanding warrants drawn on the several funds of the county prior to the 1st of November, 1855.

Also, Assembly bill No. 367, an Act to change the name of Nathan Prickett to that of Nathan Prickett Rice.

Also, Assembly bill No. 57, an Act supplementary to an Act entitled an Act to provide for the Indigent Sick in the Counties of this State, approved April 11, 1855.

Assembly Bill No. 273, an Act to organize the County of Buena Vista.

Assembly Bill No. 354, an Act to amend an Act to fix the time of holding the District Court in the Third Judicial District, approved April 5th, 1856.

Also, amended and passed Senate Bill No. 184, an Act to incorporate the Town of Columbia in the County of Tuolumne; and ask the concurrence of the Senate in the same.

W. CAMPBELL,

April 6th, 1857.

Clerk Assembly.

Senate Bill No. 184, reported from Assembly with amendments, was considered, and amendments concurred in.

Assembly Bill No. 312, was read first and second times and referred to the Sacramento Delegation.

Assembly Bill No. 367, was read first and second times and referred to the Judiciary Committee.

Assembly Bill No. 57, was read first and second times and referred to the Placer Delegation.

Assembly Bill No. 273, was read first and second times and referred to the Committee on Counties and County Boundaries.

Assembly Bill No. 354, was read first and second times and referred to the Monterey and Santa Clara Delegation.

On motion, the Senate took a recess for five minutes.

The recess having expired, the Senate re-assembled.

The President in the chair.

Roll called.

The following members were absent: Messrs. Ferguson of Sacramento, Melony, Waite, and Wilson, on leave.

Mr. Ashley made the following report:

*To the Senate:*

The Act to provide for the payment of the Debt of Santa Cruz County having been referred to me, I have examined the same, and recommend the adoption of another section, as shown by the bill reported.

Additional section:

Section 7. The Collector of Taxes shall be allowed three per cent., and no more, for collecting; and the County Treasurer shall be allowed three per cent., and no more, for receiving and disbursing all moneys collected under this Act. Provided, the revenue raised under this Act shall not be deemed or taken as a revenue for current expenses further than as provided in this Act, and whenever the Board of Supervisors shall ascertain that there is no existing indebtedness of the county exceeding the available means on hand to pay the same, then their powers to levy taxes under this Act shall cease.

Report received, and bill placed on calendar.

The hour having arrived for the Senate to organize as a High Court of Impeachment pursuant to adjournment, the President announced the suspension of all Executive and Legislative business, and that the Senate was organized as a High Court of Impeachment for the trial of George W. Whitman, Controller of State.

Whereupon the Secretary of the Senate notified the Assembly that the Senate was organized as a High Court of Impeachment, and the Sergeant-at-Arms made proclamation of the same at the door of the Senate.

The counsel for the defendant and managers being present, the Sergeant-at-Arms reported that he had been unable to ascertain the whereabouts of W. W. Willis, a witness called on the part of the State, whereupon the managers declared their desire that the Court should adjourn until the expiration of the period indicated in the proclamation offering a reward for the apprehension of Willis.

On motion, the Court adjourned until Friday next, the 10th inst., at 12 o'clock.

#### IN SENATE.

On motion, the special order of the day, under consideration when the Senate took a recess, was taken up and further considered in Committee of the Whole.

Mr. Walkup in the chair.

After some time spent in consideration of the bill, the Committee rose and reported back the bill with amendments.

In Senate. On motion of Mr. Fiske, the Senate adjourned.

Approved April 7th, 1857.

S. H. DOSH,  
President Senate pro tem.

Attest:

GEO. S. EVANS, Secretary Senate.

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## IN SENATE.

TUESDAY, April 7, 1857.

Senate met pursuant to adjournment.  
The President *pro tem.* in the chair.  
Roll called.  
Journals of yesterday read and approved.

Mr. Shaw, Chairman of the Committee on Claims, made the following report :

*Mr. President :*

The Committee on Claims, to whom was referred Assembly Bill No. 258, an Act to authorize the Treasurer of State to issue certain interest coupons, etc., report that they have considered the same and recommend its passage after the adoption of the amendments herewith submitted.

WM. J. SHAW,  
Chairman.

Amended as follows:

Section one, after the word "coupon" in line four, strike out all to the word "for" in line five, and at the end of the section add the following "on the bond of the State of California No. 608."

Report accepted and with bill placed on calendar.

Mr. Cosby made a verbal report upon Assembly Bill No. 318, an Act to fund the debt of the County of Siskiyou, recommending its passage.

Report accepted and bill placed on calendar.

Mr. Cosby made a verbal report upon Assembly Bill No. 243, an Act to amend an Act entitled an Act to incorporate Crescent City, passed April 13th, 1854, recommending its passage.

Report accepted and bill placed on calendar.

Mr. Shaw made the following report :

*Mr. President :*

The special committee to whom was referred Assembly Bill No. 267, an Act to reorganize and establish the County of San Mateo, have considered the same and recommend its passage after the adoption of the amendments herewith submitted.

WM. J. SHAW,  
FRED. A. WOODWORTH,  
SAM'L SOULE,  
E. L. SULLIVAN.

Section ten line eight, after the word "collected" add the following, "except so much thereof as may be collected on delinquent county taxes."

Section sixteen line three, after the word "them" add the following, "for county purposes."

Same section, line six, after the word "taxes" add "for county purposes."

Section seventeen, strike out line fourteen and insert after "per cent. " in line fifteen, the following, "of the amount due for county purposes."

Section nineteen, strike out section nineteen.

Report accepted and bill with amendments placed on calendar.

Mr. Woodworth made the following report:

*Mr. President:*

The special committee to whom was referred Assembly Bill No. 266, an Act supplementary to an Act entitled an Act to apportion this State into Senatorial and Assembly districts, passed May 18th, 1853, report that they have considered the same and finding that laws of this kind have been passed in other instances, and believing the object of the bill to be a just and proper one, they recommend its passage.

FRED. A. WOODWORTH,  
SAM'L SOULE,  
E. L. SULLIVAN.

Report accepted and with bill placed on calendar.

The following message was received from the Governor:

EXECUTIVE DEPARTMENT,  
Sacramento, April 6, 1857. }

*To the Senate of California :*

I have this day approved an Act supplementary to an Act entitled an Act to apportion the Senatorial and Assembly districts of this State, passed May 18th, 1853.

J. NEELY JOHNSON.

Mr. Carpenter offered a concurrent resolution relative to the establishment of certain mail routes in El Dorado County, which was adopted.

Mr. Bell made the following report :



*Mr. President :*

The Senators from the Third Judicial District have considered Assembly Bill No. 354, and recommend its passage:

BEIL,  
ASHLEY.

Report accepted and with bill placed on calendar.

GENERAL FILE.

Assembly Bill No. 284, an Act to authorize Samuel A. Bishop or his assigns, to collect tolls on a road in Los Angeles County, was read a third time and passed.

Assembly Bill No. 143, an Act to amend an Act entitled an Act to aid the officers of the Indian Department, appointed by the General Government for the State of California, in the discharge of their duties, was read a third time and passed.

Report of the Secretary of State and report of Special Committee relative to the translation of the laws of the State into Spanish, by Augustin Ainsa, were taken up and considered.

The question being on concurring in the recommendation of the Committee was put and lost.

The following message was received from the Governor :

EXECUTIVE DEPARTMENT,  
Sacramento, April 7, 1857. }

*To the Senate of California :*

I have this day approved an Act supplementary to an Act entitled an Act to incorporate the City of Oakland, passed March 25th, 1854.

J. NEELY JOHNSON.

On motion of Mr. Mandeville, Senate Bill No. 53, an Act to legalize the present indebtedness of the State of California and to provide for its payment, with all other acts relating thereto, was made the special order of the day for tomorrow the 8th inst., at 11 o'clock.

Mr. Melony made the following report:

*Mr. President :*

The Committee on Engrossed Bills have examined Senate Bill No. 205, entitled an Act to regulate proceedings in Criminal Cases, passed May 1, 1851, and report the same correctly engrossed.

A. R. MELONY,  
Chairman.

On motion of Mr. Burnett, Senate Bill No. 203, an Act supplementary to, and explanatory of, an Act entitled an Act amendatory of, and supplementary

to, an Act entitled an Act to create the Office of State Printer, and define the duties and compensation thereof, and to provide for the time and manner of elections, passed May 1st, 1854, approved April, 1857, was taken up and considered in Committee of the Whole.

After some time spent in consideration of the bill, the committee reported the same back, without amendments.

In Senate.—Mr. Shaw offered the following amendment:

"Sec. 2. The Board of Examiners and Controller of State are hereby authorized to audit and allow for all or any part of the work performed by the State Printer, the amount of compensation allowed therefor by law at the time the work is performed, provided the same be performed prior to the 1st day of May next."

Upon which the ayes and noes were demanded by Messrs. Walkup, Burnett and Ferguson of Sacramento, and taken with the following result:

#### AYES.

Messrs. Carpenter, Crandall, Ferguson of Sierra, Goodwin, Johnson of El Dorado, Norman, Shaw, Walkup and Woodworth—9.

#### NOES.

Messrs. Ashley, Bell, Burnett, Bynum, Chase, Cosby, De la Guerra, Dosh, Ferguson of Sacramento, Fiske, Johnson of Sacramento, McCallum, McGee, Melony, Merritt, Mesick, Soule and Taliaferro—18.

So the amendment was lost.

Mr. Mandeville moved to strike out the second section of the bill.

Upon which the ayes and noes were demanded by Messrs. Chase, Shaw and Walkup, and taken with the following result:

#### AYES.

Messrs. Carpenter, Crandall, Goodwin, Johnson of El Dorado, Norman, Shaw, Soule and Walkup—8.

#### NOES.

Messrs. Ashley, Bell, Burnett, Bynum, Chase, Cosby, De la Guerra, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Johnson of Sacramento, McCallum, Melony, Merritt, Mesick, Taliaferro and Woodworth—18.

Mr. McGee declined voting.

So the Senate refused to strike out.

The question being upon the suspension of the rules to consider the bill engrossed, the ayes and noes were demanded by Messrs. Chase, Walkup and Melony, and taken with the following result:

## AYES.

Messrs. Ashly, Bell, Burnett, Bynum, Chase, Cosby, De la Guerra, Dosh, Ferguson of Sacramento, Fiske, Johnson of Sacramento, Mesick and Soule—13.

## NOES.

Messrs. Carpenter, Crandall, Ferguson of Sierra, Goodwin, Johnson of El Dorado, McCallum, McGee, Melony, Merritt, Norman, Shaw, Taliaferro and Walkup—13.

So the Senate refused to suspend the rules.

The bill was then ordered engrossed and read a third time.

Mr. Shaw, by leave, introduced "an Act to authorize the introduction of water into the City and County of San Francisco, which was read first and second times, and on motion of Mr. Norman, referred to the Judiciary Committee.

On motion of Mr. Shaw, 240 copies of the bill was ordered printed.

On motion of Mr. Walkup, the rules were suspended and Senate Bill No. 173, to provide Revenue for the Support of the State, was taken up with amendments, as reported by the Committee of the Whole on yesterday, and considered in Senate. Amendments of Committee adopted in part, and bill further acted upon as follows:

Mr. Woodworth offered the following amendment: Insert in 3d section, 2d line, after the word "Assessor" the words "except otherwise instructed by special enactment," which was adopted.

Mr. Woodworth offered the following amendment to be added to section 4: "Provided, that in the city and county of San Francisco the form of the tax list and assessment roll shall be such as may be directed by the Board of Supervisors," which was adopted.

Mr. Woodworth offered the following amendment to section 5: Strike out in 11th line, after "goods," the words "on hand," and insert the words "capital stock in trade," which was rejected.

On motion of Mr. Chase, section 9 was amended as follows: Insert in 1st line, after word "required," "unless otherwise directed by the Board of Supervisors in the respective counties."

On motion of Mr. Walkup, section 9 was amended as follows: Insert in line 10, after the word "incurred," the words "and for this service the Tax Collector shall be allowed from the delinquent party a fee of three dollars, and the same mileage that a Sheriff would be entitled to receive for traveling to the place to make a levy."

On motion of Mr. Ashley, section 17 was amended as follows: After the word "land," in 5th line, insert "or in case an undivided interest is assessed, then the smallest portion of said interest."

Mr. Chase moved to amend section 20 as follows: Insert after the word "assigns," the words "and the right of possession in and to such tract so sold shall vest in such purchaser or his assigns," which was rejected.

On motion of Mr. Soule, section 20 was amended as follows: Insert in line 7, after the word "title," the words "whether possessory, or fee simple of every."

Mr. Soule moved to strike out "50" and insert "30" in 5th line of section 20.

Mr. Walkup moved to strike out "15" and insert "25" in 7th line of section 25.

The Chair put the question, on the motion of Mr. Soule.

Mr. Walkup rose to a point of order: "That an amendment offered to a section under consideration took precedence."

The Chair ruled the point of order not well taken.

Mr. Walkup appealed from the decision of the Chair.

Question, "Shall the decision of the Chair stand as the decision of the Senate?" was put, and the decision of the Chair sustained.

The question recurring on the motion of Mr. Soule, the ayes and noes were demanded by Messrs. Melony, Chase and De La Guerra, and taken with the following result:

#### AYES.

Messrs. Ashley, Burnett, Bynum, Chase, Coffroth, Cosby, De La Guerra, Ferguson of Sierra, Goodwin, Melony, Soule and Woodworth—12.

#### NOES.

Messrs. Bell, Carpenter, Dosh, Fiske, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, Mesick, Norman, Shaw, Sullivan, Walkup and Westmoreland—14.

Mr. Waite declined voting.

So the amendment was rejected.

On motion of Mr. Woodworth, "15" was stricken out and "25" inserted in line 7 of section 25.

On motion of Mr. Walkup, the following was added to section twenty-seven, "to be received from the party delinquent."

Mr. Coffroth moved to strike out all after the word "taxes" in line third of section thirty-three.

Upon which the ayes and noes were demanded by Messrs. Coffroth, Merritt and Melony, and taken with the following result:



AYES.

Messrs. Ashley, Coffroth, De la Guerra, Dosh, Goodwin, Johnson of Sacramento, Melony, Mesick and Taliaferro—9.

NOES.

Messrs. Bell, Burnett, Bynum, Chase, Cosby, Crandall, Fiske, Johnson of El Dorado, Mandeville, McCallum, McGee, Merritt, Norman, Shaw, Soule, Sullivan, Walkup and Woodworth—18.

So the motion was lost.

Mr. Johnson of Sacramento, offered the following as a substitute for section forty-eight, adopted in Committee of the Whole, for sections forty-nine, fifty and fifty-one, of the original bill.

SECTION 48. All goods, wares, merchandise, and other species of personal property, of whatsoever kind or nature, which shall at any time be sold at public auction, by any auctioneer, or by any partner, clerk or agent of any auctioneer, shall be subject, each and every time such goods, wares, merchandize, or other species of personal property are actually sold, either by any auctioneer, or by any partner, clerk, or agent of any auctioneer, or by any other person, for the account or benefit of any auctioneer, or for the account or benefit of any firm or partnership of which any auctioneer is a member, or in which he is interested, shall be subject to the payment of a duty of one half of one per centum, which duty shall be levied upon the amount for which such goods, wares, merchandize, or other personal property, are actually sold, or sale of any goods, wares, merchandize, or other personal property, either at public or private sale, by any auctioneer, or any auction firm or partnership, or by any partner, clerk or agent of any auctioneer, or by any other person, for the account or benefit of any auctioneer or auction firm or partnership, the auctioneer, and each member of the auction firm or partnership, so selling, shall be subject to and shall be liable for the payment of the duty hereby imposed for such selling.

*Provided, however,* That full payment made by one of the parties hereby held liable, shall release the others. *And, provided further,* That this section shall not be so construed as to require the payment of any duty upon the sale at auction of any personal property belonging to the United States, or to this State, or upon property sold by any officer by virtue of an execution or order of any court.

SEC. 49. The duties which this Act imposes shall be ascertained as follows, viz : On the first Monday in each month, each and every auctioneer shall make out under oath, and deliver as is hereinafter required, a true and correct statement of all goods, wares and merchandize, or other personal property, sold either at public or private sale, by him or by the firm or partnership of which he is a member, or by any partner, clerk, agent or other person for him or his firm or partnership, or for the account or by the authority of himself or of his firm or partnership, or any member thereof, during the month last preceding; and he shall in such statement particularly designate :

First. The actual sum for which all goods, wares and merchandize, or other personal property at public auction was sold.

Second. The actual sum for which all goods, wares and merchandize or other personal property sold at private sale, was sold.

Third. The duty that has accrued in favor of the State during said month; and,

Fourth. The days on which each sale took place, and the sum or value of

the property sold on each day, and the duty which accrued thereon in favor of the State.

SEC. 50. On the said first Monday in each month, or within ten days thereafter, each and every auctioneer shall present to the County Auditor the statements which Section 49 requires him to make, whereupon the Auditor shall administer to such auctioneer the following oath:

"You solemnly swear that the account now presented by you contains a true and correct statement of all the goods, wares, merchandize, or other species of personal property, which you, or the firm of which you are a member, or which any partner, or clerk, or agent of either yourself or of said firm, or any other person for you, or for your firm, or by the knowledge, authority, consent, or on account of yourself or of your firm, have sold at public auction or at private sale during the month ending on the last day of —, 185—, [inserting the month and year] inclusive; and that no sales, other than those in this account stated, have been during that time made by you or by your partners, agents, or clerks, or by any other person, at your usual place of business; and that no sales intended, or in any manner likely to avoid or prevent the collection of duties imposed on sales by auction, have been made elsewhere, with your knowledge or consent, or with the knowledge or consent of your firm, or for the benefit of yourself or of your firm, or of any member of it; and you further swear, that during the time mentioned in this statement, you have in all things, to the best of your knowledge and belief, conformed to all the laws regulating or licensing auctioneers, or imposing duties on sales at auction, or by auctioneers."

Upon which the ayes and noes were demanded by Messrs. McCallum, Johnson and Coffroth, and taken with the following result:

#### AYES.

Messrs. Chase, Cosby, Crandall, Dosh, Johnson of Sacramento, Mandeville, McCallum, Melony, Merriitt, Norman and Walkup—11.

#### NOES.

Messrs. Ashley, Bell, Burnett, Bynum, Coffroth, De la Guerra, Goodwin, Johnson of El Dorado, Mesick, Shaw, Soule, Sullivan, Taliaferro and Woodworth—14.

So the substitute was lost.

Mr. Goodwin offered the following amendment, to be added to Sec. 48 :

"Any person who shall sell at auction any lands, goods, ware or merchandize, or any other property of any name or kind, (unless by order of Court in the execution of some judgment, order or decree.) without first having procured a license according to the provisions of this Act, shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined in any sum not less than one, nor more than two hundred dollars, together with the cost of prosecution; one quarter of such fine shall go to the informer; one quarter to the District Attorney, whose duty it is hereby made to prosecute such misdemeanors; and the remaining half shall be paid into the Common School Fund of the county where the conviction may be had; all such actions may be prosecuted before any Justice of the Peace, Recorder, or Court of Sessions of the county where the offense may be committed."

Adopted.

Mr. McCallum offered as Sections 49, 50 and 51, the amendment previously offered by Mr. Johnson of Sacramento, as a substitute for Section 48 of the amended Bill, and rejected.

After debate, Mr. Walkup moved to adjourn.

Lost.

Mr. Walkup moved a call of the Senate, which was sustained, and the Sergeant-at-Arms dispatched after absentees.

Mr. Walkup moved a suspension of further proceedings under the call, which was carried.

Mr. Chase moved to adjourn, upon which the ayes and noes were demanded by Messrs. Norman, Coffroth and Ashley, and taken with the following result:

#### AYES.

Messrs. Bell, Chase, Cosby, Crandall, De La Guerra, Dosh, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, Melony, Norman, Shaw, Soule, Taliaferro, Waite and Walkup—17.

#### NOES.

Messrs. Ashley, Coffroth, Goodwin, Merritt, Mesick, Sullivan and Woodworth—7.

Messrs. Burnett and Bynum declined voting.

So the Senate adjourned.

Approved April 8th, 1857.

S. H. DOSH,

President Senate, *pro tem.*

Attest:

GEO. S. EVANS, Secretary Senate.

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#### IN SENATE.

WEDNESDAY, April 8th, 1857.

Senate met pursuant to adjournment.

The President *pro tem.* in the chair.

Journal of yesterday read and approved.

Mr. Bynum made the following report:

*Mr. President:*

The Committee on Counties and County Boundaries have had under consideration—

ation Assembly Bill No. 273, entitled an Act to organize the County of Buena Vista, and report the same back to the Senate, and respectfully recommend its reference to the Delegation from Tulare County.

S. BYNUM,  
Chairman.

Report received, and bill referred to the Delegation from Tulare.

Mr. Waite made a verbal report upon Assembly Bill No. 242, an Act to define the Time of holding the District Court in the Fourteenth Judicial District, and recommend its passage.

On motion of Mr. Chase, the rules were suspended, and bill considered read third time and passed.

Mr. Crandall made the following report:

*Mr. President:*

Your Committee on Enrollment has examined and found correctly enrolled, an Act to fix the Time of holding the Terms of the District Court of the Twelfth Judicial District in in the City and County of San Francisco.

Also, an Act to incorporate the Town of Columbia, in the county of Tuolumne.

Also, an Act to legalize certain Conveyances.

CRANDALL.

Mr. Ashley made the following report:

*Mr. President :*

The Committee on the Judiciary have considered Assembly Bill No. 97, supplementary to an Act concerning Divorces, and recommend that all after the enacting clause be struck out, and that the amendment accompanying the bill be inserted; and the bill so amended we believe worthy of a passage, and so recommend.

Also, the Committee have examined Assembly Bill No. 309, relating to proceedings in Probate and District Courts on issues of fact, and recommend that in section 4, lines 13 and 14, the word "sixth" on the settlement of an executor or administrator be struck out, and that the bill so amended be passed.

D. R. ASHLEY,  
Chairman.

Reports received, and bills placed on calendar.

Mr. Soule, from the Committee on Commerce and Navigation, made a verbal report upon the petition of citizens of Monterey, asking the right to build a wharf at the town of Monterey, and reported a bill entitled an Act making a grant for a Wharf at Monterey and providing for the same, which was read first and second time, rules suspended, bill considered engrossed, read a third time and passed.

The following message was received from the Assembly:

*Mr. President :*

I am directed to inform the Senate that the Assembly on yesterday passed the following Assembly bills, viz:



Assembly Bill No. 342, an Act concerning the Indigent Sick in the county of Placer.

Also, Assembly Bill No. 335, an Act for the relief of David F. Newson.

Also, Assembly Joint Resolution No. 9, relative to Indian Reservations in the State of California.

Also, concurred in Senate amendments to Assembly Bill No. 157, an Act to authorize the Governor to remove Insane Persons from the State Prison to the State Insane Asylum.

Also, in Senate amendments to Assembly Bill No. 27, an Act to authorize certain persons to construct a Wharf in the County of Solano.

Also, passed Senate Bill No. 193, an Act supplementary to an Act to amend an Act relating to Corporations, passed May 18th, 1853.

Also, Senate Bill No. 181, an Act authorizing Francisco De la Guerra, and others, to construct a road from the Rancho of Simi, in the County of Santa Barbara, to the Plains of San Fernando, in the County of Los Angeles.

W. CAMPBELL,  
Clerk of Assembly.

April 7, 1857.

Assembly Bill No. 335, was read first and second times and referred to the Committee on Claims.

Assembly Bill No. 342 was read first and second times and referred to the Delegation from Placer.

Assembly Joint Resolution No. 9, was read first and second times and referred to the Committee on Federal Relations.

Mr. Shaw introduced an Act authorizing the construction of a Sea Wall or Bulkhead in San Francisco.

Read first and second times and referred to the Delegation from San Francisco.

On motion of Mr. Mandeville, the rules were suspended, and Senate Bill No. 173, to provide revenue for the support of the State, was taken up and further considered.

The question recurring upon the amendment offered by Mr. McCallum, and under consideration when the Senate adjourned yesterday,

Mr. Mandeville moved a call of the Senate.

Sustained; and the Sergeant-at-Arms dispatched after absentees.

Mr. Burnett moved a suspension of further proceedings under the call.

Carried.

After much debate, Mr. McCallum offered the following additional section:

"SEC. 52. Every person being an auctioneer, who shall sell any goods, and shall neglect or refuse to comply with, or who shall directly or indirectly violate the provisions of Sections 49, 50 and 51 of this Act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by fine of not

less than one hundred dollars, nor exceeding five hundred dollars, or by imprisonment not exceeding six months, or by both such fine and imprisonment."

The question being upon the adoption of Sections 49, 50, 51 and 52, as offered by Mr. McCallum, the ayes and noes were demanded by Messrs. Coffroth, Goodwin and Mandeville, and taken with the following result:

#### AYES.

Messrs. Burnett, Carpenter, Chase, Cosby, Crandall, Dosh, Fiske, Johnson of Sacramento, Mandeville, McCallum, Melony, Merritt, Norman, Shaw and Walkup—15.

#### NOES.

Messrs. Ashley, Bell, Bynum, Coffroth, De la Guerra, Ferguson of Sierra, Goodwin, Johnson of El Dorado, McGee, Mesick, Soule, Sullivan, Taliaferro, Waite, Westmoreland and Woodworth—16.

So the amendments were rejected.

Mr. Bell offered the following amendment:

At the end of section forty-eight add the following: "And any auctioneer \_\_\_\_\_ out his license to another or others shall be deemed guilty of a misdemeanor, and on conviction thereof, shall pay the fine of not less than five hundred nor more than one thousand dollars, for every such offense, together with costs of suit.

And it is hereby made the duty of the District Attorney of the district where such offense shall be committed to prosecute all persons offending against this provision. All fines collected under this provision shall be paid into the general fund of the Treasury of the State."

Adopted.

Mr. Ashley offered the following amendment:

Append to section forty-two: "*Provided*, That upon this Act taking effect the Board of Supervisors in each county, if the same amount has not previously been levied this year, shall levy the State tax fixed by this Act."

Adopted.

Mr. Bell offered the following additional section :

SECTION 53. Should the Tax Collector in any case fail to secure the payment of taxes, regularly assessed in accordance with the provisions of this Act, and in accordance with the provisions for enforcing the payment of delinquent taxes, as set forth in this Act, then such tax collector shall proceed against any such delinquent, for the collection of any unpaid tax, by due process of law, as provided in actions of debt by the laws of this State, and judgment in such actions obtained shall be a lien upon any and all the property and estate, real and personal, of the delinquent defendant.

Rejected.

Mr. Walkup offered the following amendment to section forty-eight:

After word prosecution insert "and on default of payment shall be imprisoned in the county jail for any term not less than three nor more than six months."

Adopted.

Mr. Walkup offered the following amendment to section forty-eight :

Insert after "others" the following : "And any person who shall sell or offer for sale any property at auction, in the name or under the license of another, and without having first obtained a license in his own name, so to do."

Adopted.

Mr. Shaw moved to strike out section forty-eight.

Mr. Coffroth rose to a point of order:

"A motion to strike out a section previously adopted was not in order."

The chair decided the point well taken.

Mr. Walkup appealed from the decision of the chair.

The question being, "Shall the decision of the chair stand as the judgment of the Senate," was put and lost.

So the decision of the chair was overruled. .

The question recurring on the motion of Mr. Shaw to strike out the forty-eighth section, the ayes and noes were demanded by Messrs. Coffroth, Shaw and Walkup, and taken with the following result:

#### AYES.

Messrs. Burnett, Carpenter, Chase, Candall, Dosh, Fiske, Johnson of Sacramento, Mandeville, McCallum, McGee, Melony, Merritt, Norman, Shaw and Walkup—15.

#### NOES.

Messrs. Ashley, Bell, Bynum, Coffroth, De la Guerra, Goodwin, Johnson of El Dorado, Mesick, Soule, Sullivan, Taliaferro, Waite, Westmoreland and Woodworth—14.

So the motion was stricken out.

Mr. Shaw offered as an amendment the sections forty-nine, fifty, fifty-one and fifty-two, as offered by Mr. McCallum and rejected this morning, inserting in the fifty-second section the words "or any of them."

Mr. Coffroth rose to a point of order.

It was not in order to offer an amendment changed in words, but the same in substance and already once voted down.

The chair decided the point well taken.

Mr. McCallum appealed from the decision of the chair.

The question being, "Shall the decision of the Chair stand as the judgment of the Senate?" the ayes and noes were demanded by Messrs. Coffroth, McCallum and Cosby, and taken with the following result:

AYES.

Messrs. Ashley, Bell, Bynum, Coffroth, De La Guerra, Goodwin, McGee, Soule, Sullivan, Taliaferro, Westmoreland and Woodworth—12.

NOES.

Messrs. Burnett, Carpenter, Chase, Cosby, Crandall, Fiske, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, Melony, Merritt, Norman, Shaw and Walkup—15.

Mr. Mesick declined voting.

So the decision of the Chair was overruled.

Mr. Woodworth moved a call of the Senate, which was not sustained.

Mr. Norman moved the previous question.

Pending which, Mr. Coffroth moved a call of the Senate, upon which the ayes and noes were demanded by Messrs. De La Guerra, Coffroth and Goodwin, and taken with the following result:

AYES.

Messrs. Ashley, Bell, Bynum, Coffroth, De La Guerra, Ferguson of Sierra, Goodwin, Johnson of El Dorado, McGee, Mesick, Soule, Sullivan, Taliaferro, Westmoreland and Woodworth—15.

NOES.

Messrs. Burnett, Carpenter, Chase, Cosby, Crandall, Dosh, Fiske, Johnson of Sacramento, Mandeville, McCallum, Melony, Merritt, Norman, Shaw and Walkup—15.

So the call was not sustained.

The motion of Mr. Norman for the previous question was then put, and the call of the previous question sustained.

The question being, "Shall the main question be now put?" the ayes and noes were demanded by Messrs. Coffroth, Woodworth and Goodwin, and taken with the following result:

AYES.

Messrs. Burnett, Carpenter, Chase, Cosby, Crandall, Dosh, Fiske, Johnson of Sacramento, Mandeville, McCallum, Melony, Merritt, Norman, Shaw and Walkup—15.

NOES.

Messrs. Ashley, Bell, Bynum, Coffroth, Ferguson of Sierra, Goodwin, John-



son of El Dorado, McGee, Mesick, Soule, Sullivan, Taliaferro, Westmoreland and Woodworth—14.

Mr. De La Guerra declined voting.

So the main question was ordered to be put.

The main question being the adoption of the amendment offered by Mr. Shaw the ayes and noes were demanded by Messrs. Coffroth, Merritt and Taliaferro, and taken with the following result:

#### AYES.

Messrs. Burnett, Carpenter, Chase, Cosby, Crandall, Dosh, Fiske, Johnson of Sacramento, Mandeville, McCallum, Melony, Merritt, Norman, Shaw and Walkup—15.

#### NOES.

Messrs. Ashley, Bell, Bynum, Coffroth, De La Guerra, Ferguson of Sierra, Goodwin, Johnson of El Dorado, McGee, Mesick, Soule, Sullivan, Taliaferro, Westmoreland and Woodworth—15.

So the amendments were rejected.

The bill was then ordered engrossed and read a third time.

Mr. Coffroth presented an Act amendatory of an Act to provide for the formation of Corporations for certain purposes, passed April 14th, 1853, which was read first and second times and referred to the Committee on Corporations.

Mr. Melony made the following report.

*Mr. President :*

The Committee on Engrossed Bills have examined Senate Bill No. 203, entitled "An Act supplementary to, and explanatory of, an Act entitled an Act amendatory of and supplementary to an Act entitled an Act to create the Office of State Printer, and define the duties and compensation thereof, and to provide for the time and manner of election, passed May 1st, 1854, approved April, 1857, and report the same correctly engrossed.

April 7th, 1857.

A. R. MELONY,  
Chairman.

Mr. Crandall made the following report:

*Mr. President:*

Your Committee on Enrollment has presented to the Governor for his approval, an Act to incorporate the Town of Columbia, in the County of Tuolumne.

Also, an Act to fix the time for holding the terms of the District Court of the Twelfth Judicial District, in the City and County of San Francisco.

Also, an Act to legalize certain conveyances.

CRANDALL,  
Chairman.

On motion of Mr. Ashley, all bills in relation to State Debt, were made the special order of the day for to-morrow, at 10½ o'clock.

Mr. Merritt introduced a bill entitled an Act to repeal an Act for the relief of Insolvent Debtors and protection of Creditors, passed May 4th, 1852.

Read first and second times and referred to the Judiciary Committee.

Mr. Merritt made the following report:

*Mr. President :*

The Judiciary Committee to whom was referred Senate Bill No. 14, an Act concerning Insolvent Debtors and attachments against their property; also, Senate Bill No. 123, an Act to amend an Act entitled an Act to regulate proceedings in the Courts of Justice of this State, passed April 29th, 1851; also, Senate Bill No 124, an Act for the relief of Insolvent Debtors and for the protection of their Creditors;—have had the same under consideration, and beg leave to report a substitute for said bills, and recommend the adoption of the substitute.

By order of the Judiciary Committee,

MERRITT,  
Of Committee.

Report received and bills with substitute placed on calendar.

Mr. Burnett, by leave, made the following report:

*Mr. President :*

The Committee on Claims, to whom was referred Assembly Bill No, 239, an Act entitled an Act supplemental to an Act entitled an Act to create a Board of Commissioners to examine the claims of the citizens of the Counties of Klamath, Siskiyou and Humboldt, and report to the Governor of this State the amount of just claims held by the citizens of these counties for services rendered and supplies furnished to the troops and volunteers engaged in the suppression of Indian hostilities in the years 1852, 1853, 1854 and 1855, passed April 26th, 1856, have had the same under consideration.

Your committee find that many of the claims intended to have been submitted to the Board of Commissioners, could not, under the provisions of the Act of 1856, be passed upon by that Board, inasmuch as the law did not provide for an examination of claims for spoliation.

Your committee would respectfully recommend the passage of the bill without amendments.

W. C. BURNETT,  
Of Committee on Claims.

Report accepted and bill placed on Calendar.

On motion of Mr. Mandeville, Senate Bill No. 172, an Act entitled an Act to grant the right to construct a turnpike road between the town of Columbia and the City of Sonora, in the County of Tuolumne, was taken up and the amendments of Assembly concurred in.

The following message was received from the Assembly:

*Mr. President :*

I am directed to inform the Senate that the Assembly on yesterday, the 7th inst., passed the following Assembly Bills:

No. 144, an Act to divide the State of California into Congressional districts, in accordance with an Act of Congress, approved June 25th, 1842.

No. 327, an Act to authorize Raphael Gomez to receive and enjoy certain property.

No. 343, an Act granting the right to the Administrator of George Gunn, deceased, to sell the real estate belonging to said estate at private sale.

No. 364, an Act to authorize Thos. O. Larkin to sell certain lands in Colusi County, belonging to his infant children.

No. 370, an Act to amend an Act entitled an Act to reincorporate the City of Stockton.

Also, have adopted Senate concurrent resolution requesting the Governor to correspond with the Secretary of War and the Secretary of the Treasury of the United States, relative to a survey of the water front of the City of San Francisco, having reference to the construction of a sea wall or bulkhead.

W. CAMPBELL,  
Clerk of Assembly.

April 8th, 1857.

Assembly Bill No. 144 was read first and second times, and referred to the Committee on Mines and Mining Interests.

Assembly Bill No. 327 was read first and second times.

Mr. De La Guerra moved to suspend the rules and place the bill on its third reading.

Lost, and the bill referred to the Judiciary Committee.

Assembly Bill No. 343 was read first and second times, and referred to the Judiciary Committee.

Assembly Bill No. 364 was read first and second times, and referred to the Judiciary Committee.

Assembly Bill No. 370 was read first and second times.

Mr. Melony moved to suspend the rules and place the bill on its third reading, which was lost, and the bill referred to the Delegation from San Joaquin County.

On motion of Mr. Mandeville, Assembly Bill No. 166, an Act to provide Revenue for the Support of the Government of this State, from a Tax to be levied and collected from Foreign and Inland Bills and other matters, and Senate Bill No. 122, upon the same subject, were made the special order of the day for Friday, the 10th, at 11 o'clock.

Mr. De La Guerra moved to adjourn, upon which the ayes and noes were demanded by Messrs. Walkup, Merritt and McCallum, and taken with the following result:

## AYES.

Messrs. Bell, Bynum, Chase, Crandall, De La Guerra, Dosh, Ferguson of Jierra, Johnson of El Dorado, Mandeville, McGee, Melony, Norman and Walk-up—13.

## NOES.

Messrs. Ashley, Burnett, Carpenter, Goodwin, Johnson of Sacramento, McCallum, Merritt, Shaw, Soule, Sullivan and Woodworth—11.

So the Senate adjourned.

Approved April 9, 1857.

S. H. DOSH,

President Senate *pro tem.*

Attest:

GEO. S. EVANS, Secretary Senate.

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 IN SENATE.

THURSDAY, April 9, 1857.

President *pro tem.* in the chair.

Roll called.

Journals of yesterday read and approved.

On motion of Mr. Mandeville, the special order of the day, being the several bills relative to the State Debt, were taken up:

On motion of Mr. Mandeville, Senate Bill No. 202, an Act to provide for paying certain equitable claims against the State of California, and to contract a funded debt for that purpose, was read a first and second times, and considered in Committee of the Whole.

After some time spent in considering the bill, the committee rose and reported the same back with amendments.

In Senate.—Amendments of committee concurred in.

On motion of Mr. Ashley, the vote by which the Senate concurred in the amendment on line 2, in Section 5, by which the words "Controller and" were added, was reconsidered.

Mr. Chase offered the following amendment:

In line 2, of Section 5, after the word "specified," insert: "Shall present the same to the Controller and Treasurer, who shall allow the same, if entitled to be received and funded under this Act, and certify by such claim, "allowed;"



and provided the Controller and Treasurer shall not agree as to the allowance of any such claim so presented, the Governor shall thereupon determine the same, and certify "allowed," or disallowed;" and such claims certified as aforesaid "allowed," by the Controller and Treasurer, or by either and the Governor."

Adopted.

Mr. McCallum moved to strike out the words "Secretary of State," in the last section of the bill, and insert "Governor."

After much debate, Mr. Norman moved the previous question.

Sustained.

The question being "Shall the main question be now put?" was put and carried.

The main question being on the motion of Mr. McCallum to strike out and insert, the ayes and noes were demanded by Messrs. McCallum, Fiske and Soule, and taken with the following result :

#### AYES.

Messrs. Bell, Burnett, Cosby, Fiske, Goodwin, Johnson of Sacramento, McCallum, Mesick, Shaw and Soule—10.

#### NOES.

Messrs. Ashley, Chase, Coffroth, Crandall, De la Guerra, Dosh, Ferguson of Sacramento, Johnson of El Dorado, McGee, Melony, Norman, Taliaferro and Walkup—13.

Mr. Westmoreland declined voting.

So the Senate refused to strike out and insert.

On motion of Mr. Bell the bill was then ordered engrossed and read a third time.

Mr. McCallum moved to reconsider the vote by which the Senate ordered the bill engrossed and read a third time.

Lost.

Mr. Ferguson of Sacramento, made the following report:

*Mr. President :*

The undersigned, one of the delegation to whom was referred Assembly Bill No. 312, entitled an Act to authorize the County of Sacramento to fund the outstanding warrants drawn on the several funds of the county prior to the first day of November, A. D. 1855, has had the same under consideration and begs leave to report the same back with the recommendation that it pass without amendment.

W. I. FERGUSON.

Mr. Johnson of Sacramento made the following report on the same bill:

*Mr. President :*

The undersigned delegation from Sacramento, to whom was referred Assembly Bill No. 312, an Act to authorize the funding of certain warrants drawn by the Auditor of the County of Sacramento, on the treasury of said county prior to the first day of November, 1855, have had the same under consideration and beg leave to make the following report :

The amount of warrants outstanding which are recognized by the authorities of the county as legal, that could be funded by this bill, will not exceed eight thousand dollars. There are also warrants amounting to twenty-six thousand dollars, which were given to John M. Rhodes in payment for nine hundred shares of the stock of the Sacramento Turnpike and Plank Road Company, which at the time of purchase had no value, and which purchase has been declared by a competent tribunal to be void, and of no binding force upon the county. This scheme was a fraud upon the county to the amount of the warrants issued, it being notorious that the stock of the company at the time of purchase had no value, and the parties were fully advised that the Board of Supervisors could not legally purchase such stock. The grand jury of the county was in session a short time before these warrants were drawn, and made inquiry into the matter, and in their report to the Court of Sessions, September 1st, 1855, the following passage may be found:

"The plank road from the city to its terminus is almost impassable. If the company are not able or willing to put it in proper order for travel, they ought to surrender it to the county. We summoned one of the company before us who stated that a proposition had been made to sell the road to the county for thirty thousand dollars. The purchase, we think, would be an outrage upon our citizens; and we are informed by the District Attorney that the Supervisors have no such power: we therefore recommend that the Supervisors resist all such propositions. We hope the company will be compelled to keep it in order or be made to abandon the road, so that it may be put in traveling condition by the public authorities."

This report was published in the newspapers, and the parties thereby had full knowledge of the opinion of the Grand Jury and the District Attorney on the subject. The legality of the purchase of these 900 shares of stock was tested in the District Court in this District in July last, the Hon. Judge Howell presiding. After rehearsing the testimony and arguments presented in the case, the learned Judge sums up the matter in the following language:

"If I am correct in my legal conclusions as to the contract, it is an utter nullity, void upon its face, and impotent to bind the county. The evidence of its existence is a matter of record spread upon the minutes of the Board of Supervisors of Sacramento county, and is not subject to be lost or destroyed. The warrants issued in payment of the stock distinctly specify the liability for which they were drawn, and when it accrues, and they carry upon their face the evidence of their own invalidity, and the supposed liability for which they were issued. No one can take them as an innocent holder or purchaser, and thereby protect himself, for no one can take them without notice. Neither Rhodes nor his assignee, whoever he may be, acquired any rights under them; and if the Treasurer pays them, he does it voluntarily, at his own risk, and with full notice of the consequences."

So the matter rested, the Treasurer refusing to pay the warrants. Within a few days past a suit has been commenced in the District Court to compel the Treasurer of the county to pay these warrants, which suit has not yet been decided; but the holders, apparently having no faith in their success in court, seek through

the action of the Legislature to compel the authorities of the county of Sacramento to fund these worthless warrants, and thereby add for years to come to the already overburthen of taxation upon the people. We trust that a scheme so unjust, and (if passed) calculated to bring reproach upon the Senate, or at least, those members found voting for it, will not be passed. For these reasons, we recommend the indefinite postponement of the bill.

April 9th, 1857.

JOSIAH JOHNSON.

On motion of Mr. Ferguson of Sacramento, the whole subject matter was made the special order of the day for Saturday next, the 11th inst., at 11 o'clock.

Mr. Coffroth made the following report:

*Mr. President :*

The Special Committee, consisting of the Tuolumne Delegation, to whom was referred Assembly Bill No. 58, in reference to the funding of hospital warrants in the county of Tuolumne, and also Assembly Bill No. 261, amendatory of an Act to provide for the Indigent Sick in the counties of this State, have had the same under consideration, and herewith submit a substitute for the same, and recommend its passage.

JAS. W. COFFROTH,  
J. W. MANDEVILLE.

Report accepted, substitute adopted, read first and second times, rules suspended, considered engrossed, read a third time and passed.

Mr. Melony made the following report:

*Mr. President :*

Your committee to whom was referred Assembly Bill No. 370, entitled an Act to amend an act entitled an Act to incorporate the city of Sockton, have had the same under consideration, and beg leave to report the same back and recommend its passage.

A. R. MELONY.

Report accepted, rules suspended, bill read a third time and passed.

Mr. Burnett made a verbal report on Assembly Bill No. 285, an Act amendatory and supplementary to an act entitled an Act to incorporate the city of Marysville, (approved March 8th, 1857,) with the following additional section, and recommended its passage:

Section 15. So much of the Yuba River as lies between its mouth and a point at the west end of the public Plaza, in the city of Marysville, is hereby made and declared navigable. So much of section one of an Act entitled an Act declaring certain rivers and creeks navigable, passed February 18th, 1851, as conflicts with this section is hereby repealed.

On motion, the rules were suspended, amendments adopted, bill read a third time and passed.

Mr. Goodwin made a verbal report relative to Assembly Bill No. 220, an Act to regulate Fees in Office in the county of Yuba, recommending its passage.

Report accepted, and bill placed on calendar.

Mr. Waite, Chairman of the Committee on Corporations, made the following report:

*Mr. President :*

The Committee on Corporations report Senate Bill No. 141, an Act supplementary to an act entitled an Act to provide for the formation of Corporations for certain purposes, passed April 14th, 1853. for the consideration of the Senate.

WAITE, Chairman.

Mr. Merritt moved to make the bill the special order of the day for Monday next, the 13th inst.

Mr. Walkup moved to refer the bill to the Committee on Mines and Mining Interests.

Mr. Coffroth moved to refer the bill to the Committee of the Whole on the 4th day of July next.

The Chair decided that the motion of Mr. Coffroth had precedence.

Mr. Merritt appealed from the decision of the Chair.

Question: "Shall the decision of the Chair stand as the judgment of the Senate?" was put, and the decision of the Chair sustained.

Mr. Norman moved the previous question.

Sustained.

Question: "Shall the main question be now put?" which was put and carried.

The main question, being the motion of Mr. Coffroth to refer to the Committee of the Whole on the 4th day of July next, was put and lost.

The question recurring on Mr. Walkup's motion to refer to the Committee on Mines and Mining Interests, was put and carried.

Mr. Norman introduced an Act to authorize Jackson Pronty to construct a wagon road from Mokelumne Hill to a point on the Stockton road at or near the Golden Gate Ranch in the County of Calaveras.

Read first and second times and referred to the Delegation from Calaveras.

Mr. Ferguson, of Sacramento, introduced an Act to provide for the construction of the State Capital in the City of Sacramento.

Read first and second times and referred to the Committee on Public Lands.

Mr. Crandall, Chairman of the Committee on Enrollment, made the following report:

*Mr. President:*

Your Committee on Enrollment have examined and found correctly enrolled, an Act authorizing Francisco De la Guerra, and others, to build and construct



a turnpike or gravel road from the Rancho of Simi, in the County of Santa Barbara, to the Plain of San Fernando, in the County of Los Angeles.

Also, an Act supplementary to an Act to amend an Act relating to Corporations.

D. CRANDALL,  
Chairman.

On motion of Mr. Coffroth, Senate Bill No. 163, an Act amending and supplemental to the Act entitled an Act to provide for the disposal of the five hundred thousand acres of land granted to the State by Act of Congress, passed on the 3d day of May, 1852, was made the special order of the day for to-morrow, the 10th inst., at 2 o'clock.

Mr. Merritt offered the following resolution:

*Resolved*, That after the 11th day of April, 1857, no new bills shall be introduced into the Senate, except by consent of three-fourths of the Senate.

Upon which the ayes and noes were demanded by Messrs. Walkup, Merritt and Bell, and taken with the following result:

AYES.

Messrs. Ashley, Burnett, Bynum, Carpenter, Chase, Dosh, Goodwin, Johnson of El Dorado, Merritt, Shaw, Soule, Taliaferro and Walkup—13.

NOES.

Messrs. Bell, Coffroth, Cosby, Crandall, De la Guerra, Ferguson of Sierra, Fiske, Johnson of Sacramento, Mandeville, McCallum, McGee, Melony, Mesick, Norman, Waite, Westmoreland and Woodworth—17.

So the resolution was lost.

On motion of Mr. Soule, the several bills relative to chattel mortgages were taken from the table and placed on calendar.

Mr. Walkup moved to suspend the rules and take up Senate Bill No. 177, an Act concerning roads and highways, which was lost.

Mr. Waite gave notice that at an early day he would introduce an Act to provide appropriations for the civil government of the State, from the first day of February, A. D. 1857, to the 31st day of January, A. D. 1858, inclusive.

Mr. McCallum moved to take up Senate Bill No. 182, an Act to reduce and establish the per diem of members, officers and attaches of the Legislature, and the salaries of officers.

Mr. Ashley moved to amend by adding and place the bill on the calendar.

Mr. Walkup called for a division of the question.

The question on the motion to take up the bill, the ayes and noes were demanded by Messrs. Melony, Walkup and McCallum, and taken with the following result:

## AYES.

Messrs. Carpenter, Chase, Dosh, Johnson of Sacramento, McCallum, McGee, Melony, Norman, Shaw, Soule, Waite and Walkup—12.

## NOES.

Messrs. Ashley, Bell, Burnett, Bynum, Coffroth, Cosby, Crandall, De la Guerra, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Goodwin, Johnson of El Dorado, Mandeville, Merritt, Mesick, Taliaferro, Westmoreland and Woodworth—19.

So the Senate refused to take up the bill.

On motion of Mr. McCallum, the Bill was taken up and placed on the calendar.

## GENERAL FILE.

Mr. Mandeville in the chair.

Senate Bill No. 205, an Act to amend an Act entitled an Act to regulate proceedings in criminal cases, passed May 1st, 1851, was read third time and passed.

Senate Bill No. 203, an Act supplementary to, and explanatory of, an Act entitled an Act amendatory of, and supplementary to, an Act entitled an Act to create the office of State Printer and define the duties and compensation thereof, and to provide for the time and manner of election, passed May 1st, 1854, approved April, 1857, was read a third time and passed.

Assembly Bill No. 191, an Act to provide for the publication of the General Laws of the State in force at the expiration of the eighth session of the Legislature, with amendments reported by the Judiciary Committee, was considered in Committee of the Whole.

After some time so spent in considering the bill, the committee rose and reported it back to the Senate, with amendments.

In Senate.—On motion, the amendments of the Committee of the Whole to the Judiciary were adopted, and bill read a third time.

The ayes and noes were demanded on the final passage by Messrs. Burnett, Coffroth and Mesick.

Mr. Coffroth moved a call of the Senate, which was carried, and the Sergeant-at-Arms dispatched for absent Senators.

Mr. Chase moved to suspend the call.

Lost.

Absent Senators having been admitted within the bar, on motion of Mr. Mer-

rit, the call was suspended, and the ayes and noes taken on the final passage of the bill with the following result:

AYES.

Messrs. Ashley, Bynum, Carpenter, Coffroth, Cosby, De La Guerra, Dosh, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, Melony, Soule, Taliaferro, Walkup, Westmoreland and Woodworth—20.

NOES.

Messrs. Burnett, Chase, Merritt, Mesick, Shaw and Waite—6.

Mr. Bell declined voting.

So the bill was passed.

Mr. Cosby moved to adjourn, upon which the ayes and noes were demanded by Messrs. Goodwin, Norman and Walkup, and taken with the following result:

AYES.

Messrs. Bynum, Carpenter, Cosby, Dosh, Fiske, Johnson of Sacramento, Mandeville, McGee, Melony, Mesick, Soule and Westmoreland—12.

NOES.

Messrs. Ashley, Bell, Burnett, Chase, Coffroth, Crandall, Ferguson of Sierra, Goodwin, Johnson of El Dorado, McCallum, Merritt, Norman, Shaw, Sullivan, Taliaferro, Waite and Woodworth—17.

So the Senate refused to adjourn.

Assembly Bill No. 290, an Act supplementary to an Act entitled an Act to provide for the incorporation of Railroad Companies, passed April 22d, 1853, and to the several Acts amendatory thereto, with amendments, reported from the Committee on Corporations.

Mr. Westmoreland moved that 240 copies of the bill be ordered printed.

Lost.

On motion, the amendments of the committee were adopted.

On motion of Mr. Bell, the bill was further amended by inserting the word "railroad" after the word "or," in 9th line.

And the bill, as amended, was read third time.

After much debate, Mr. Fiske moved the previous question, which was sustained.

Question, "Shall the main question be now put?" was put and carried.

The main question being the final passage of the bill, the ayes and noes were demanded by Messrs. McCallum, Walkup and Carpenter, and taken with the following result:

## AYES.

Messrs. Ashley, Bell, Burnett, Bynum, Chase, Coffroth, Dosh, Ferguson of Sierra, Fiske, Goodwin, Johnson of El Dorado, McGee, Mesick, Soule, Taliaferro, Waite, Westmoreland and Woodworth—18.

## NOES.

Messrs. Carpenter, Crandall, Ferguson of Sacramento, Mandeville, McCallum, Melony, Merritt, Norman, Shaw and Walkup—10.

So the bill passed.

On motion, the Senate adjourned.

Approved April 10th, 1857.

R. M. ANDERSON,  
President Senate.

Attest:

GEO. S. EVANS, Secretary Senate.

## IN SENATE.

FRIDAY, April 10, 1857.

Senate met pursuant to adjournment.

The President in the chair.

Roll called

Journals of yesterday read and approved.

Mr. Walkup made a verbal report relative to Assembly Bill No. 342, an Act concerning the indigent sick in the county of Placer, recommending its passage.

On motion, the rules were suspended, bill read a third time and passed.

Mr. Ashley in the chair.

Mr. Walkup made a verbal report relative to Assembly Bill No. 57, an Act supplementary to an Act entitled an Act to provide for the Indigent Sick in the Counties of this State, approved April 11th, 1855.

Report accepted, and, on motion, bill referred to Committee on Hospitals.

The following message was received from the Assembly :

*Mr. President :*

I am directed to inform the Senate that the Assembly, on yesterday, passed Assembly Bill No. 323, an Act regulating challenges to individual Grand Jurors.



Also, Assembly Bill No. 350, an Act to provide for the erection of a Court House and Jail in the County of San Luis Obispo.

Also, Senate Bill No. 155, an Act relating to, and fixing the residence of the County Judge of El Dorado County.

Also, have adopted Senate Concurrent Resolution relative to the establishment of certain mail routes in El Dorado County.

Also, have adopted Assembly Concurrent Resolution, requesting the Governor to return a certain Act.

Also, have adopted Assembly Joint Resolution in relation to extending pre-emption privileges to settlers upon the public lands in the State of California.

W. CAMPBELL,

April 8, 1857.

Clerk of Assembly.

Assembly Bill No. 323, was read first and second times and referred to the Judiciary Committee.

Assembly Bill No. 350, was read first and second times and referred to the Delegation from San Luis Obispo.

Assembly Concurrent Resolution relative to return of a certain Act, was concurred in.

Assembly Joint Resolution No. 8, relative to pre-emption privileges, was read first and second times and referred to the Committee on Public Lands.

The following message was received from the Assembly :

*Mr. President :*

The Assembly, on the 7th inst., passed joint resolution No. 11, relative to the establishment of an additional land office in this State.

J. W. SCOBEEY,

April 9, 1857.

Assistant Clerk.

Assembly Joint Resolution No. 11, was read first and second times and referred to the Committee on Federal Relations.

The following message was received from the Assembly :

*Mr. President :*

I am directed to inform the Senate that the Assembly, on yesterday, passed Assembly Bill No. 369, an Act to authorize the construction of a wharf at Monterey, in the County of Monterey.

Also, Assembly Bill No. 332, an Act to amend an Act entitled an Act concerning County Recorders, passed March 26th, 1851.

W. CAMPBELL,

April 10, 1857.

Clerk of Assembly.

Assembly Bill No. 369, was read first and second times and referred to the delegation from Monterey.

Assembly Bill No. 332, was read first and second times, and referred to the Judiciary Committee.

Mr. Melony offered the following resolution:

*Resolved*, That the Engrossing Clerk of the Senate be allowed an assistant clerk on and after this date.

Adopted.

Mr. Woodworth gave notice that he will, at an early date, introduce a bill for an Act to prevent illegal voting in the City and County of San Francisco, and to promote the convenience of legal voters.

Mr. Woodworth introduced an Act supplemental to an Act to authorize the funding of the floating debt of the City of San Francisco, and to provide for the payment of the same, approved May 1, 1851, which was read first and second times and referred to the delegation from San Francisco.

The hour having arrived for the consideration of the special order of the day, being the several bills to provide revenue for the support of the Government of the State.

On motion of Mr. Mandeville, Assembly Bill No. 166, an Act to provide revenue for the support of the government of this State, from a tax to be levied and collected from foreign and inland bills and other matters, was taken up and considered in Committee of the Whole.

After some time spent in consideration of the bill and amendments, the Committee rose and reported the same back.

In Senate—On motion, the Senate took a recess of five minutes in order to prepare for the trial of Geo. W. Whitman, Controller of State.

The Senate reassembled at the time appointed.

The President presiding.

Roll called.

The President announced that all executive and legislative business was suspended and the Senate organized as a High Court of Impeachment for the trial of Geo. W. Whitman, Controller of State.

Whereupon the Secretary of the Senate notified the Assembly of the organization of the Court, and the Sergeant at Arms made proclamation at the door of the Senate.

The managers on the part of the Assembly, the defendant and counsel being present, the Sergeant at Arms was called and reported that he had exercised due diligence and was entirely unable to find W. W. Willis, a witness on the part of the State.

Whereupon the managers submitted the following order:

*Ordered*, That the Court adjourn for five days, which was adopted by the following vote:

AYES.

Messrs. Ashley, Chase, Cosby, Crandall, Fiske, Johnson of Sacramento, John-

son of El Dorado, Mandeville, McCallum, Merritt, Mesick, Norman, Shaw, Soule and Waite—15.

NOES.

Messrs. Bell, Burnett, Bynum, Coffroth, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Goodwin, Taliaferro, Walkup, Westmoreland and Woodworth—12.

• Mr. Melony declined voting.

IN SENATE.

Mr. Ashley in the chair.

Mr. Burnett moved to adjourn.

Upon which the ayes and noes were demanded by Messrs. Mesick, Bell and Merritt, and taken with the following result:

AYES.

Messrs. Bynum, Cosby, Crandall, Dosh, Ferguson of Sacramento, Goodwin, Johnson of El Dorado, Mandeville, Melony, Mesick, Walkup, Westmoreland and Woodworth—13.

NOES.

Messrs. Ashley, Bell, Burnett, Chase, Coffroth, Ferguson of Sierra, Fiske, Johnson of Sacramento, McCallum, Merritt, Norman, Shaw, Soule, Taliaferro and Waite—15.

So the Senate refused to adjourn.

Mr. Norman made the following report.

*Mr. President:*

The Calaveras Delegation, to whom was referred Senate Bill No. 214, an Act to authorize Jackson Pronty to construct a wagon road from Mokelumne Hill to a point on the Stockton road at or near the Golden Gate Ranch in Calaveras County, have had the same under consideration, and report the same back to the Senate and recommend its passage.

W. B. NORMAN.

Report received, and, on motion, the rules were suspended and the bill considered.

On motion, the rules were further suspended, the bill considered engrossed, read third time, and passed.

Mr. Mesick offered the following resolution:

*Resolved*, That two hundred and forty copies of the report of the Commissioners of the California War Debt be printed, and furnished this House.

Adopted.

On motion, Assembly Bill No. 166, an Act to provide revenue for the support

of the Government of this State, under consideration when the Senate took recess to prepare for the Impeachment trial, was taken up and further considered, in Committee of the Whole.

After some time spent in so considering the bill, the committee rose and reported the same back to the Senate, and asked leave to sit again on to-morrow, at 10½ o'clock, A. M.

In Senate.—Mr. Norman moved to adjourn.

Upon which the ayes and noes were demanded by Messrs. Merritt, Fiske and McCallum, and taken with the following result:

#### AYES.

Messrs. Burnett, Crandall, Ferguson of Sierra, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Maudeville, Melony, Mesick, Norman, Soule, Waite, Walkup, Westmoreland and Woodworth—15.

#### NOES.

Messrs. Ashley, Bell, Chase, Coffroth, Fiske, McCallum, Merritt and Taliaferro—8.

So the Senate adjourned.

Approved April 11th, 1857.

R. M. ANDERSON,  
President of the Senate.

Attest:

GEO. S. EVANS, Secretary of the Senate.

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### IN SENATE.

SATURDAY, April 11th, 1857.

Senate met pursuant to adjournment.

The President in the Chair.

Roll called.

Journals of yesterday read and approved.

On motion, Messrs. Sullivan, Walkup, Westmoreland and Dosh had leave of absence granted for two days each, and indefinite leave was granted to Mr. Carpenter.

On motion of Mr. Maudeville, messages from the Governor were taken up.

The following message was read:



EXECUTIVE DEPARTMENT,  
Sacramento, April 9th, 1857. }

*To the Senate of California :*

I have this day approved an Act to incorporate the Town of Columbia, in the county of Tuolumne.

Also, an Act to fix the Time of holding the Terms of the District Court of the Twelfth Judicial District in the city and county of San Francisco.

J. NEELY JOHNSON.

The following message was received from the Governor:

EXECUTIVE DEPARTMENT,  
Sacramento, April 10th, 1857. }

*To the Senate of California :*

An Act entitled an Act amendatory of and supplementary to an Act entitled an Act to create the office of State Printer and define the duties and compensation thereof, and to provide for the time and manner of election, passed May 1st, 1854, is hereby returned to your honorable body without my approval.

At the commencement of the present session of the Legislature, in my annual message, I suggested the propriety of an inquiry being made into the rates allowed for public printing with a view to the reduction thereof, and I am fully convinced that the rates in many instances now provided by law greatly exceed that which would sufficiently compensate for those services, and earnestly desirous am I to have the law amended so as to secure such reduction, but whilst securing this salutary measure of reform, care should be taken that a just observance should be paid to the rights of individuals which are secured by the law now in force.

The Act now under consideration is proposed to become operative on the 1st day of May of the present year, after which time the rates of compensation become materially reduced on those now provided by law. It is a well known fact that the more expensive portion of the public printing (the laws and journals) will have ere that time been placed in the hands of the State Printer and very much of the work completed, yet he being unable from the nature and character of the work to furnish the bound copies to the proper officer before the new law shall become operative, he will necessarily be compelled to receive his pay at the reduced rates allowed by this amendatory Act, notwithstanding, as has been observed, the work has been ordered and in part completed under the operation of the pre-existing Act. The proper officers of State could be guided by no other rule of compensation than as provided by law existing at the time the work is completed, particularly in that character of work which is paid for at certain fixed rates per volume. This is the practical operation of the amendatory Act, and in that it violates one of the fundamental principles of our organic law contained in article 1, section 16, State Constitution: "No law impairing the obligations of contracts shall ever be passed." This law constitutes of itself a contract between the State and the incumbent of that office, and the rates which are therein affixed cannot be changed so as to provide a less rate for work performed whilst it is in existence. This amendatory Act would produce such effect in positive derogation of the Constitution, and as such cannot receive my sanction.

In another particular, but one of minor moment, wherein it is provided that no compensation shall be made for such copies of the daily journals of either House as might be ordered printed for their use, occurs a palpable violation of those principles of equity and justice which should alike characterize the action

of government as well as individuals. Here a State Printer is elected, subscribes an oath of office, executes bonds in a large sum for the performance of duties entailed on him by law, when no condition of this kind is imposed; yet by a subsequent act this onerous condition is superadded, whereby he is compelled to labor for the State in a particular which may involve him in a large expenditure, and shall nevertheless perform the service as a gratuity to the State. If he refuses to do it he and his bondsmen must respond in damages to the State. Such an act of injustice as this is rarely exhibited and can never meet with my approval.

Entertaining the foregoing views it can readily be perceived that such inseparable objections exist in the Act under consideration as render my action in returning it to your honorable Body for further consideration, as imperative. This is a cause of much regret, that due observance has not been given to the vested rights of individuals secured by law, and at the same time enact such salutary amendments as would secure substantial benefits to the State, and to the end that I might be saved the disagreeable alternative of withholding approval of this act. I have awaited nearly the full measure of time allowed by the Constitution in which to take necessary action in relation to it, that proper amendments might be enacted by which those objections could be removed. This however has not accomplished, yet it is hoped that proper amendments will be enacted during the present session so as to secure a reduction upon the rates now allowed, upon a constitutional and just basis.

J. NEELY JOHNSON.

On motion of Mr. Mandeville, the following endorsements upon the envelope to the message were directed to be placed on the journals, addressed:

*To the President of the California Senate:*

Endorsed, "Received the within message and bill at twenty-five minutes after three o'clock, P. M. Senate not in session. April 10, 1857."

(Signed)

R. M. ANDERSON.

"Received the within message and bill at twenty-five minutes past three o'clock, from the hands of R. M. Anderson, President of the Senate; the Senate not in session. April 10, 1857."

(Signed)

GEO. S. EVANS.

The question being "Shall the bill pass notwithstanding the objections of the Governor?" the roll was called with the following result:

AYES.

Messrs. Ashley, Burnett, Bynum, Chase, Cosby, Crandall, De la Guerra, Ferguson of Sierra, Goodwin, Johnson of El Dorado, Mandeville, McCallum, McGee, Melony, Merritt, Norman, Shaw, Soule, Waite and Woodworth—20.

NOES.

Messrs. Bell, Ferguson of Sacramento, Fiske and Johnson of Sacramento—4.  
So the bill passed notwithstanding the objections of the Governor.

Mr. Cosby presented the following communication received by him:

SACRAMENTO, April 10, 1857.

HON. J. D. COSBY :

I beg leave to ask you the favor of presenting to the Legislature of the State of California, for me and in my name, the laws selected to be translated in the Spanish language, for the year 1856. I have them already translated, and being of no use to me it is my desire that the State may have them, and thereby save the sum of six hundred dollars, besides extras, which at this time should not be overlooked. The acceptance of my offer will be gratifying to me, and I shall have the satisfaction of having done something for the State.

Yours very truly,

M. AINSA, JR.

Communication accepted, and on motion, referred to the Committee on Printing.

Mr. Merritt presented the memorial of Moses Whitcomb, W. B. Peake and R. B. Hampton, praying for relief, together with certain documents and papers relating thereto, which were received and referred to the Committee on Claims.

Mr. Ashley, Chairman of the Judiciary Committee, made the following report:

*Mr. President :*

The Judiciary Committee has considered Senate Bill No. 183, an Act to prohibit gaming, and recommend its passage, with the following amendments:

Section one, line ten, between the words " term and two " strike out the word " of " and insert the following: "not exceeding."

Also, Senate bill No. 185, an Act supplementary to and explanatory of an Act entitled an Act to further extend the Act concerning Corporations, passed April 22, 1850, passed February 23, 1857 ; and recommend its passage.

Also, Assembly bill No. 327, an Act to authorize Rafael Gomez to receive and enjoy certain property ; and recommend its passage.

Also, Assembly bill No. 364, an Act to authorize Thomas O. Larkin to sell certain lands in Colusi County, belonging to his infant children ; and recommend its passage.

Also, Assembly bill No. 367, an Act to change the name of Nathan Pricket to that of Nathan Pricket Rice ; and recommend its indefinite postponement.

Also, Assembly bill No. 298, an Act to repeal an Act entitled an Act concerning County Judges, passed April 4, 1854 ; and recommend its indefinite postponement.

Also, Assembly bill No. 165, an Act to amend an Act to provide for the appointment and prescribe the duties of Guardians, passed April 19, 1850 ; and recommend its indefinite postponement.

D. R. ASHLEY,

Chairman.

Report accepted, and bill placed on calendar.

The following report was received from the Judiciary Committee :

*Mr. President :*

The Judiciary Committee has examined Assembly bill No. 332, an Act to amend an Act entitled an Act concerning County Recorders, passed March 26, 1857, and recommend that all of the first section, down to the words " section thirty," inclusive, be stricken out. In same section, strike out all after the word

"estate," in twenty-fourth line, and insert "are hereby legalized and declare valid and effective, to all intents and purposes, as if this law had been in force at the time such warrants were issued."

Amend the title of the Act to read "An Act concerning County Warrants;" and thus amended, we recommend the passage of this Act.

D. R. ASHLEY,  
Chairman.

Report accepted, and on motion the rules were suspended, and bill, with amendments, considered in Committee of the Whole. After some time spent in consideration of the bill and amendments, the Committee rose and reported the same back.

In Senate—On motion of Mr. Norman, the bill was laid on the table.

Mr. Crandall, Chairman of the Committee on Enrollment, made the following report :

*Mr. President :*

The Committee on Enrollment have examined and found correctly enrolled, an Act relating to, and fixing the residence of the County Judge of the County of El Dorado.

Also, an Act entitled an Act to grant the right to construct a Turnpike Road between the Town of Columbia and City of Sonora, in the County of Tuolumne.

D. CRANDALL,  
Chairman.

Mr. De la Guerra made the following report:

*Mr. President :*

The Delegation from San Luis Obispo, to whom was referred Assembly Bill No. 350, an Act to provide for the erection of a Court House and Jail in the County of San Luis Obispo, have considered the same, and report the bill back to the Senate and recommend its passage.

DE LA GUERRA.

Report accepted, and with bill placed on the calendar.

The following message was received from the Assembly :

*Mr. President:*

The Assembly have this day concurred in Senate amendments to Assembly Bill No. 290, an Act supplemental to an Act entitled an Act to provide for the incorporation of Railroad Companies, passed April 22, 1853, and the several Acts amendatory thereto.

Also, to Assembly Bill No. 191, an Act to provide for the publication of the General Laws of this State, in force at the expiration of the eighth session of the Legislature:

Also, to Assembly Bill No. 285, an Act amendatory of, and supplementary to, an Act entitled an Act to incorporate the City of Marysville, approved March 8th, 1857.

J. W. SCOBEE,  
Assistant Clerk.

April 10, 1857.



The following message was received from the Assembly:

*Mr. President :*

I am directed to inform the Senate that the Assembly have passed the following bills:

Assembly Bill No. 320, an Act concerning certain records in the County of San Joaquin.

Assembly Bill No. 377, an Act to amend an Act to authorize the County of Sacramento to fund the outstanding warrants drawn against the Court House and Jail Fund of the county, approved March 5th, 1855

Assembly Bill No. 378, an Act to provide for fixing the commencement of the terms of office for the County of Yuba.

April 11, 1857.

W. CAMPBELL,  
Clerk of Assembly.

Assembly bill No. 320 was read first and second times and referred to the Delegation from San Joaquin.

Assembly Bill No. 377, was read first and second times and referred to the Delegation from Sacramento.

Assembly Bill No. 378 was read first and second times and referred to the Delegation from Yuba.

The following message was received from the Assembly:

*Mr. President:*

The Assembly requests that the Senate will furnish the House with the Governor's message returning Senate Bill No. 203 with his objections.

April 11, 1857.

J. W. SCOBAY,  
Assistant Clerk.

By direction of the President, the message was handed to the Clerk.

Also, the following:

*Mr. President :*

The Assembly on yesterday passed Senate Bill No. 132, an Act to amend an act entitled an Act to repeal the various Charters of the City of San Francisco, to define the boundaries of the City and County of San Francisco, and to consolidate the Government thereof, passed April 19th, 1856, with accompanying amendments to the bill and title, and request the concurrence of the Senate.

April 11, 1857.

J. W. SCOBAY,  
Assistant Clerk.

Senate Bill No. 132, with amendments of the Assembly, was taken up, and on motion, made the special order for two o'clock.

Mr. Merritt made the following report:

*Mr. President :*

The undersigned, a majority of the committee to whom was referred the message of the Governor appointing George W. Ryder to the office of Guager of Wines and Liquors of the city of San Francisco, have had the same under consideration, and report:

The committee have taken the testimony of such witnesses as would probably throw any light upon the subject, which is herewith filed for the consideration of the Senate. Further: That in the opinion of the undersigned, there is no evidence showing any reason why the appointment of Mr. Ryder should not be confirmed. Finally: That in the opinion of the undersigned the testimony does not show any official corruption on the part of the Executive.

McCALLUM,  
MERRITT,  
WESTMORELAND.

Report accepted, and on motion, made the special order for this day the 11th inst., at 1 o'clock.

The hour having arrived for the consideration of the special order of the day, Assembly Bill No. 312, an Act to authorize the county of Sacramento to fund the outstanding Warrants drawn on the several funds of the county prior to the 1st day of November, 1855, was taken up.

Mr. Johnson moved to make the bill the special order of the day for Tuesday next, the 14th inst., which was lost.

The bill was then considered in Committee of the Whole.

After some time spent in consideration of the bill, the committee rose and reported back to the Senate without amendment.

In Senate—Mr. Johnson, of Sacramento, offered the following amendment: At the end of the last section insert—"Provided, That this Act shall not become a law until ratified by a vote of the people at the next general election."

After much debate, Mr. Johnson, of El Dorado, moved the previous question, which was sustained.

The question being, Shall the main question be now put, the ayes and noes were demanded by Messrs. McCallum, Johnson of Sacramento, and Fiske, and taken with the following result:

AYES.

Messrs. Bell, Bynum, Coffroth, Crandall, De la Guerra, Ferguson of Sacramento, Goodwin, Johnson of El Dorado, McGee, Melony, Taliaferro, Waite and Westmoreland—13.

NOES.

Messrs. Ashley, Fiske, Johnson of Sacramento, Mandeville, McCallum, Merritt, Mesick, Shaw, Soule and Woodworth—10.

So the main question was ordered to be put.

The main question being the adoption of the amendment of Mr. Johnson, of

Sacramento, the ayes and noes were demanded by Messrs. Shaw, Fiske, and Johnson of Sacramento, and taken with the following result :

AYES.

Messrs. Fiske, Johnson of Sacramento, Shaw and Woodworth—4.

NOES.

Messrs. Ashley, Bell, Bynum, Coffroth, Crandall, De La Guerra, Ferguson of Sacramento, Goodwin, Johnson of El Dorado, McGee, Melony, Merritt, Mesick, Soule, Taliaferro and Westmoreland—16.

So the amendment was rejected.

The bill was then read a third time.

The question being on the final passage of the bill, the ayes and noes were demanded by Messrs. Fiske, Shaw and Johnson of Sacramento, and taken with the following result :

AYES.

Messrs. Ashley, Bell, Bynum, Coffroth, Crandall, De la Guerra, Ferguson of Sacramento, Goodwin, Johnson of El Dorado, McGee, Melony, Soule, Taliaferro, Waite, Westmoreland and Woodworth—16.

NOES.

Messrs. Fiske, Johnson of Sacramento, Mandeville and Shaw—4.

Mr. Merritt declined voting.

So the bill was passed.

Mr. Westmoreland moved to reconsider the vote by which the Senate passed the bill.

Mr. Coffroth moved to indefinitely postpone the motion to reconsider.

Mr. Goodwin moved the previous question, which was sustained.

Question, "Shall the main question be now put?" was put and carried.

The main question being the motion to indefinitely postpone the motion to reconsider, was then put and carried.

Mr. McGee, introduced a bill entitled an Act to provide for the construction of a road from Marysville, Yuba County, to Honey Lake, Plumas County.

Read first and second times and referred to the delegation from the Counties of Yuba and Butte.

Mr. Woodward introduced a bill entitled an Act to prevent illegal voting in the City and County of San Francisco, and to promote the convenience of legal voters.

Read first and second times and referred to the Judiciary Committee.

Mr. Melony made the following report :

*Mr. President :*

The Committee on Engrossed Bills have examined and find correctly engrossed Senate Bill No. 173, entitled an Act to provide revenue for the support of the Government of this State.

A. R. MELONY,  
Chairman

April 11, 1857.

Mr. Shaw introduced a bill entitled an Act concerning taxes for the support of Common Schools in the City and County of San Francisco.

Read first and second times and referred to the San Francisco delegation.

Mr. McCallum in the chair.

On motion of Mr. Merritt, the special order of the day for one o'clock, was taken up, being the confirmation of the appointment of Geo. W. Ryder as Gauger of Wines and Liquors for the Port of San Francisco.

Mr. Ferguson moved to postpone its further consideration and make it the special order of the day for Monday next.

Lost.

Mr. Coffroth moved that the report of the Special Committee and the testimony taken before them be read.

Lost.

Mr. Mandeville in the chair.

On motion of Mr. Westmoreland, the vote by which the Senate refused to have the report and testimony read, was reconsidered, and report and testimony read.

The question being, "Shall the Senate confirm the appointment of Geo. W. Ryder, as Gauger of Wines and Liquors, for the Port of San Francisco.

The roll was called and the appointment confirmed by the following vote:

AYES.

Messrs. Ashley, Burnett, Chase, Coffroth, Crandall, Fiske, Johnson of Sacramento, Mandeville, McCallum, Melony, Merritt, Norman, Shaw, Soule, Westmoreland and Woodworth—16.

NOES.

Messrs. Bynum, Ferguson of Sacramento and Taliaferro—3.

Mr. Goodwin declined voting.

Mr. Burnett rose to a question of privilege—alluded to his statement made in the morning relative to a conversation between the Governor and himself upon the Printing bill—reaffirmed his belief that he had understood the Gov-



ernor to remark that the Act would be approved by him, but was still satisfied that the Governor believed he had not so remarked, and read a communication from him upon the subject.

Mr. Melony introduced an Act for the relief of R. Manning and J. Benadon, which was read first and second times, and referred to the Committee on Claims.

Mr. Crandall made the following report :

Your Committee on Enrollment have presented to the Governor, for his approval, an Act supplementary to an Act to amend an Act relating to Corporations.

Also, an Act authorizing Francisco De La Guerra and others to build and construct a Turnpike or Gravel Road, from the ranch of Simi, in the County of Santa Barbara, to the plain of San Fernando, in the County of Los Angeles.

Also, an Act relating to and fixing the residence of the County Judge of the County of El Dorado.

Also, an Act entitled an Act to grant the right to construct a Turnpike Road from the town of Columbia and city of Sonora, in the County of Tuolumne.

D. CRANDALL.

By leave, Mr. Westmoreland introduced a bill for an Act for the relief of Keepers of San Francisco County Jail, which was read first and second times and referred to the San Francisco Delegation.

The hour having arrived for the special order, Senate bill No. 132, an Act to amend an Act entitled an Act to repeal the various Charters of the City of San Francisco, to define the Boundaries of the City and County of San Francisco, and to Consolidate the Government thereof, passed April 19th, 1856, was taken up and considered.

Mr. Bell offered the following amendment :

Strike out the words "and Yerba Buena," between the words "Alcatraz" and "and."

Mr. Burnett moved a call of the Senate.

Carried.

On motion, further proceeding under the call was suspended.

Mr. Bell moved to refer the bill and amendments to a special committee.

Mr. Ashley moved the previous question.

Sustained.

Question, "Shall the main question be now put?"—was put and carried.

The question being upon the reference of the bill and amendments to a special committee, the ayes and noes were demanded by Messrs. Taliaferro, Burnett and Bynum, and taken with the following result:

## AYES.

Messrs. Bell, Burnett, Crandall, Mandeville, Merritt, Mesick, Taliaferro, Waite and Westmoreland—9.

## NOES.

Messrs. Ashley, Bynum, Chase, Fiske, Goodwin, Johnson of Sacramento, Callum, Melony, Norman, Shaw, Soule and Woodworth—12.

So the motion was lost.

Question recurring on the adoption of the amendment offered by Mr. Bell, was put, and amendment rejected.

Question being on the adoption of Assembly amendments, was put, and amendments concurred in.

On motion of Mr. Merritt, the Senate adjourned.

Approved April 13th, 1857.

R. M. ANDERSON,  
President of the Senate.

Attest:

GEO. S. EVANS, Secretary Senate.

## IN SENATE.

MONDAY, April 13, 1857.

Senate met pursuant to adjournment.

The President in the chair.

Roll called.

Journals of Saturday read and approved

Indefinite leave of absence was granted to Mr. Walkup.

Leave of absence was granted to Mr. Sullivan.

Mr. Melony, Chairman of the Committee on Engrossed Bills, made the following report:

*Mr. President :*

The Committee on Engrossed Bills have examined and found correctly engrossed, Senate Bill No. 202, entitled an Act to provide for paying certain equitable claims against the State of California, and to contract a funded debt for that purpose,

A. R. MELONY,  
Chairman.

Mr. Melony made the following report:

*Mr. President :*

Your Committee to whom was referred Assembly Bill No. 320, entitled an

Act concerning certain records in the County of San Joaquin, have had the same under consideration, and respectfully beg leave to report the same back and recommend its passage.

A. R. MELONY.

Report accepted, and with bill placed on calendar.

Mr. Goodwin made the following report:

*Mr. President :*

The Delegation from Yuba have considered Assembly Bill No. 378, and report it back with the recommendation that it pass.

GOODWIN. .

Report accepted and with bill placed on calendar.

Mr. McCallum in the chair.

Mr. Ashley made the following report:

*To the Speaker of the Assembly and the President of the Senate:*

The Committee of Free Conference upon Assembly Bill No. 10, an Act to amend an Act entitled an Act defining the rights of Husband and Wife, passed April 17, 1850, have considered the matter, and recommend that the proviso in the Assembly Bill be struck out, and the following proviso be adopted, to wit:

" *Provided*, That when such decree of divorce is rendered on the ground of adultery, or of extreme cruelty, the party found guilty thereof shall only be entitled to such portion of the common property, as the court granting the decree may in its discretion, from the facts of the case, deem just to allow; and such allowance shall be subject to revision, on appeal, in all respects, including the exercise of discretion by the court below."

And the committee recommend that the Assembly bill, with the proviso changed as aforesaid, be agreed to.

SAM. B. BELL,  
D. R. ASHLEY,  
Senate Committee.

A. P. CATLIN,  
G. D. HALL,  
B. F. VARNEY,  
Assembly Committee,

Report accepted and recommendation of committee adopted.

Mr. Johnson of Sacramento, made the following report:

*Mr. President :*

The undersigned, of the Delegation representing the county of Sacramento, to whom was referred Assembly Bill No. 377, an Act to authorize the county of Sacramento to fund the outstanding Warrants drawn against the Court House and Jail Fund of the county, approved March 5th, 1855, have had the same under consideration, and beg leave to report the bill back to the Senate without amendment, recommending its passage.

JOSIAH JOHNSON.

Report accepted, and with bill placed on calendar.

Mr. Shaw made the following report:

*Mr. President :*

The Act concerning Taxes for the Support of Common Schools in the city and county of San Francisco, has been duly considered by the Special Committee to whom it was referred, and they unanimously recommend its passage.

Per order of the committee.

WM. J. SHAW.

Report accepted, and with bill, placed on calendar.

Mr. Shaw moved to suspend the rules and take up the bill, which was lost.

The following message was received from the Governor:

EXECUTIVE DEPARTMENT,  
Sacramento, April 11, 1857. }

*To the Senate of California :*

I hereby nominate and appoint George H. Wyatt, Port Warden of San Francisco, *vice* George W. Ryder, resigned, and respectfully ask the concurrence of the Senate.

J. NEELY JOHNSON.

The question being upon the confirmation of the appointment, the roll was called, and the appointment confirmed by the following vote:

AYES.

Messrs. Ashley, Bell, Burnett, Chase, Cosby, Crandall, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, McGee, Melony, Merritt, Mesick, Norman, Shaw, Taliaferro, Waite, Westmoreland and Woodworth—25.

The following message was received from the Assembly:

*Mr. President:*

The Assembly on the 10th inst. passed Assembly Bill No. 360, an Act supplemental to an Act to provide for funding the legal and equitable Debt of the city of San Francisco, and for the final redemption of the same, passed May 7th, 1855.

April 11th, 1857,

J. W. SCOBEE,  
Assistant Clerk.

Assembly Bill No. 360 was read first and second times and referred to the Delegation from San Francisco.

The following message was received from the Assembly:

*Mr. President :*

The Assembly on the 9th inst. passed Assembly Bill, No. 385, an Act to



repeal an act entitled an Act amendatory of an act entitled an Act concerning County Judges, passed April 4th, 1854; and also an Act which passed April 30th, 1855, amendatory of the above recited Act, approved April 18th, 1856. •

April 11th, 1857.

J. W. SCOBEEY,  
Assistant Clerk.

Assembly Bill No. 385 was read first and second times and referred to the Delegation from Plumas

The following message was received from the Assembly:

*Mr. President :*

I am directed to inform the Senate that the Assembly, on Saturday last, passed, notwithstanding the Governor's objections, by the requisite constitutional majority, Senate Bill No. 17, an Act amendatory of and supplemental to an Act entitled an Act to create the office of State Printer, and to define the duties and compensation thereof, and to provide for the time and manner of election, passed May 1st, 1854.

Also, on Friday, the 10th inst., passed Senate Bill No. 213, an Act relating to the hospital affairs of Tuolumne County.

Also, Assembly Bill No. 363, an Act to provide for the construction of canals and for leveling and draining and reclaiming certain swamp and overflowed land in the Counties of Sutter and Butte.

Also, Assembly Bill No. 358, an Act to amend an Act entitled an Act to incorporate the town of Placerville, passed May 13, 1854.

Also Assembly Bill No. 389, an Act fixing traveling fees in Tulare County.

Also, on Saturday, 11th inst., passed Assembly Bill No. 115, an Act amendatory of an Act entitled an Act to establish the boundaries of Amador County and fix the County Seat thereof, passed April 23, 1855.

And Senate Bill No. 134, an Act to authorize Maria Ygnacia, wife of Jarvier Alvisa, and Maria Juana, wife of Jose Rochine, to sell and convey real estate.

W. CAMPBELL,  
Clerk of Assembly.

April 13, 1857.

Assembly Bill No. 363, was read first and second times and referred to the delegations from Butte and Sutter.

Assembly Bill No. 358, was read first and second times and referred to the delegation from El Dorado.

Assembly Bill No. 389, was read first and second times and referred to the delegation from Tulare.

Assembly Bill No. 115, was read first and second times and referred to the delegations from El Dorado and Amador.

Mr. Bell introduced an Act more clearly defining the western boundaries of Alameda County, and the City of Oakland within said county, which was read first and second times.

Mr. Bell moved to suspend the rules and consider the bill.

Lost.

On motion, the bill was referred to the Committee on Counties and County Boundaries.

On motion of Mr. Ashley, Assembly Bill No. 332, an Act to amend an Act entitled an Act concerning County Recorders, passed March 26th, 1851, was taken from the table, and being under consideration, Mr. Norman offered a substitute, which was adopted.

Mr. Shaw offered the following amendment.

Add to the end of section the following: "Nor shall any of the provisions of this act be construed to apply to the City and County of San Francisco."

Adopted.

On motion the rules were then suspended, bill considered engrossed, read a third time and passed.

On motion of Mr. Mandeville, Senate Bill No. 177, an Act concerning roads and highways, was taken from the table and placed on the calendar.

Mr. Goodwin offered the following amendment to the standing rules of the Senate, which by rule lays over for a day.

Section 9th of Senate Rules is hereby amended so as to read as follows:

Every Senator when he speaks shall, standing in his place, address the President, and when he has finished he shall sit down. No member shall speak more than once in any one debate on the same day, and at the same stage of the bill, and then not to exceed five minutes.

#### GENERAL FILE.

Senate Bill No. 173, an Act to provide Revenue for the Support of the Government of this State, was taken up.

Mr. Johnson of Sacramento moved to refer the bill to the Committee on Finance, with instructions to insert the following amendment:

Section 49. All goods, wares, merchandise and other species of personal property, of whatever kind or nature, which shall at any time be offered or exposed for sale at public auction, or which shall be sold at private sale by any auctioneer, or by any partner, clerk or agent of any auctioneer, shall be subject, each and every time such goods, wares, merchandise or other species of personal property are actually sold, either by any auctioneer, or by any partner, clerk or agent of any auctioneer, or by any other person, for the account or benefit of any auctioneer, or for the account or benefit of any firm or partnership of which any auctioneer is a member, or in which he is interested, shall be subject to the payment of a duty of one-half of one per centum, which duty shall be levied upon the amount for which such goods, wares, merchandise or personal property are actually sold; the auctioneer and each member of the auction firm or partnership so selling, or causing, or allowing, such selling, shall be subject to and shall be liable for, the payment of the duty hereby imposed for such selling. *Provided, however,* That full payment made by one of the parties hereby held liable, shall release the others: and *Provided, further,* That this section shall not be so construed as to require the payment of any duty upon the sale at auction of any property belonging to the United States, or to this State, or upon property sold by any officer by virtue of an execution or order of any court.

Section 50. The duties which this Act imposes shall be ascertained as follows, viz: On the first Monday in each month, each and every auctioneer shall make out under oath, and deliver, as is hereinafter required, a true and correct statement of all goods, wares and merchandise, or species of personal property sold, either at public or private sale, by him, or by the firm or partnership of which he is a member, or by any partner, clerk, agent or other person for him, or his firm or partnership, or for the account, or by the authority of himself, or of his firm or partnership, or of any member thereof during the month last preceding; and he shall in such statement particularly designate: *First*. The actual sum for which all at public auction was sold. *Second*. The actual sum for which all property sold at private sale was sold. *Third*. The duty that has accrued in favor of the State during said month. *Fourth*. The days on which each sale took place, and the sum or value of the property sold on each day, and the duty which accrued thereon in favor of the State.

Section 51. On the said first Monday in each month, or within two days thereafter, each and every auctioneer shall present to the County Auditor the statements which section 50 require him to make, whereupon the Auditor shall administer to such auctioneer the following oath: "You solemnly swear that the account now presented by you contains a true and correct statement of all the goods, wares, merchandise, or other species of personal property, which you, or the firm of which you are a member, or which any partner, or clerk, or agent of either yourself or of said firm, or any other person for you or for your firm, or by the knowledge, authority, consent, or on account of yourself or of your firm, have sold, either at public auction or at private sale during the month ending on the last day of ———, 185—, inclusive; and that no sales, other than those in this account stated, have been, during that time, made by you or by your partners, agents or clerks, or by any other person, at your usual place of business; and that no sales, intended, or in any manner likely to avoid or prevent, the collection of duties imposed on sales by auction, have been made elsewhere, with your knowledge or consent, or with the knowledge or consent of your firm, or for the benefit of yourself or of your firm, or of any member of it; and you further swear, that during the time mentioned in this statement you have in all things, to the best of your knowledge and belief, conformed to all the laws regulating or licensing auctioneers, or imposing duty on sales at auction or by auctioneers."

Section 52. Every person, being an auctioneer, who shall sell any goods and shall neglect or refuse to comply with, or who shall directly or indirectly violate the provisions of Sections 49, 50 and 51, or either of them, of this Act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by fine of not less than \$100, nor exceeding \$500, or by imprisonment not exceeding six months, or by both such fine and imprisonment.

Mr. Westmoreland rose to a point of order: "A motion to refer, with instructions to insert an amendment previously rejected, was not in order."

The Chair ruled the point of order not well taken.

The question being on Mr. Johnson's motion to refer with special instructions, was put and carried.

Senate Bill No 202, an Act to provide for paying certain equitable claims against the State of California and to contract a funded debt for that purpose was read a third time.

After much debate, the question being "Shall the bill pass?"

Mr. Goodwin moved the previous question.

Sustained.

Question, "Shall the main question be now put?" was put and carried.

The main question being the final passage of the bill, the ayes and noes were demanded by Messrs. Burnett, Westmoreland and Norman, and taken with the following result:

AYES.

Messrs. Ashley, Burnett, Chase, Crandall, Dosh, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, McGee, Melony, Merritt, Mesick, Norman, Soule, Taliaferro, Waite, Westmoreland and Woodworth—22.

NOES.

Messrs. Bell and Cosby—2.

So the bill passed.

Mr. Johnson of Sacramento made the following report:

*Mr. President :*

The Judiciary Committee, to whom was referred Senate Bill No. 173, (with special instructions,) an Act to provide revenue for the support of the Government of this State, have amended the bill as instructed, and beg leave to report the same back to the Senate for further consideration.

JOSIAH JOHNSON.

Report accepted, and, on motion, bill taken up, amendments of committee considered and adopted.

On motion, the rules were suspended and bill considered engrossed.

Mr. Goodwin moved to recommit the bill, with special instructions.

After much debate, Mr. Merritt moved the previous question.

Sustained.

Question, "Shall the main question be now put?" was put and carried.

The main question being Mr. Goodwin's motion to recommit with special instructions, was put and lost.

The question being "Shall the bill pass?"

Mr. Bell rose to a point of order. "The main question did not include the passage of the bill."

The chair ruled the point not well taken.



Mr. Shaw rose to a point of order. "The bill had not been read a third time."

The chair ruled the point well taken.

Mr. Ashley rose to a point of order. "The reading by title was a third reading."

The chair ruled the point well taken.

Mr. Woodworth called for the reading of the bill in full.

Objected to.

The question was put, "Shall the bill be read in full?"

Lost.

The question recurring on the passage of the bill, the ayes and noes were demanded by Messrs. Soule, Woodworth and Bell, and taken with the following result:

#### AYES.

Messrs. Ashley, Burnett, Chase, Cosby, Crandall, Dosh, Ferguson of Sacramento, Fiske, Johnson of Sacramento, Johnson of El Dorado, McCallum, McGee, Melony, Merritt, Mesick, Norman, Shaw, Taliaferro, Waite and Westmoreland—20.

#### NOES.

Messrs. Goodwin, Soule and Woodworth—3.

Mr. Bell declined voting.

So the bill was passed.

Mr. Merritt moved to reconsider the vote by which the bill passed.

Mr. Melony moved to indefinitely postpone the motion to reconsider.

Put and carried.

The following message was received from the Governor:

EXECUTIVE DEPARTMENT, }  
Sacramento, April 15, 1857. }

*To the Senate of California:*

I have this day approved an Act relating to and fixing the residence of the County Judge of the County of El Dorado.

J. NEELY JOHNSON.

The following message was received from the Governor:

EXECUTIVE DEPARTMENT, }  
Sacramento, April 11, 1857. }

*To the Senate of California:*

I have this day approved an Act to provide for the construction of canals, and for draining and reclaiming certain swamp and overflowed lands in Tulare Valley.

J. NEELY JOHNSON.

## GENERAL FILE RESUMED.

Assembly Bill No. 258, an Act to authorize the Treasurer of State to issue a certain interest coupon to Julius Kneegenhagan, with amendments of Committee on Claims, reported April 7, was considered in Committee of the Whole.

After some time so spent in considering the bill, the Committee rose and reported the same back with amendments.

In Senate—Amendments adopted in Committee were concurred in, bill read a third time and passed.

Assembly Bill No. 318, an Act to fund the debt of the County of Siskiyou, was on motion of Mr. Cosby, placed at foot of the calendar.

Assembly Bill No. 243, an Act to amend an Act entitled an Act to incorporate Crescent City, passed April 13th, 1854, was read a third time and passed.

Mr. Bell rose to a question of privilege. He desired it to be understood, when ruled down under the operation of the previous question, that on the final passage of the Revenue Bill, he was opposed to final action upon the bill in the absence of two or more Senators who were known to be deeply interested in the bill. It looked like taking an unfair advantage of an unforeseen circumstance.

The amendments just engrafted in the bill had been voted down on three several occasions, and now sprung upon the Senate in the absence of the Senators who opposed them. He took great pleasure in remarking that he had been informed that no such advantage was contemplated, the absent Senators having paired off. Had he been permitted to make this statement at the proper time, all would have been most satisfactory, fair play observed, and all left in good humor.

Assembly Bill No. 267, an Act to reorganize and establish the County of San Mateo, was considered in Committee of the Whole.

After some time spent in considering the bill, the committee rose and reported the same back to the Senate, with amendments reported from Special Committee on the 7th inst.

In Senate.—Amendments adopted in committee concurred in.

On motion of Mr. Norman, the bill as amended was made the special order for Thursday the 16th, at 12 o'clock.

On motion of Mr. Norman, 240 copies of the bill were ordered printed.

Assembly Bill No. 266, an Act supplementary to an Act entitled an Act to apportion this State into Senatorial and Assembly Districts, passed May 18th, 1853, was read third time and passed.

Mr. Merritt rose to a question of privilege, and stated that the testimony taken before the select committee appointed to investigate into the appointment of George W. Ryder, as Gauger of Wines and Liquors for the Port of San Francisco, was erroneously reported in the "Union" newspaper, and did great

injustice to Governor Johnson and to the committee, and read portions of the evidence to substantiate his statement, and moved that, in justice to Governor Johnson as well as to the committee, 240 copies of the proper evidence, as reported by the committee and filed by the Secretary, be ordered printed.

Carried.

#### GENERAL FILE RESUMED.

Assembly Bill No. 179, an Act to fix the compensation of certain officers in the County of Santa Clara, Santa Cruz, Monterey, Mariposa, Butte, Colusi, Napa, Yolo, San Joaquin and Yuba, was considered in Committee of the Whole.

After some time spent in so considering the bill, the committee rose, reported the same back to the Senate, with amendments.

In Senate—On motion, the amendments adopted in committee were concurred in, and bill read third time as amended, and passed.

Assembly Bill No. 252, an Act restricting the herding of sheep to certain pasturage in the County of Sonoma, was taken up.

On motion of Mr. Taliaferro, the County of "Marin" was inserted, and the word "county," changed to "counties," wherever it occurred in the bill.

Bill read third time and passed as amended.

Assembly Bill No. 293, an Act fixing the time of holding the Courts of Sessions, County Courts, and Probate Courts, in the Counties of Siskiyou and Colusi, was read third time and passed.

Assembly Bill No. 209, an Act amendatory and explanatory of an Act entitled an Act amendatory of an Act entitled an Act to provide for the disposal of lots in the towns and villages on the public lands in Humboldt County, passed April 27th, 1855, approved April 3d, 1856, reported from the Committee on Public Lands 28th ultimo, with amendments. Amendments adopted, bill read third time, and passed.

Senate Bill No. 176, an Act supplementary and amendatory of an Act entitled an Act to authorize the formation of corporations for the construction of Plank and Turnpike Roads, passed May 12th, 1853, was considered in Committee of the Whole.

After having spent some time in considering the same, the committee rose and reported the bill back, with amendments.

In Senate.—Amendments of committee concurred in, rules suspended, bill considered engrossed, read third time, and passed.

Assembly Bill No. 232, an Act to amend an Act to define the time when the County Officers of Sierra County shall enter upon the discharge of their duties, was read third time and passed.

Senate Bill No. 198, an Act to authorize the sale of certain real estate by

Guardian, reported from the Judiciary Committee April 1st, was taken up, read first and second time, and placed on calendar.

Assembly Bill No. 145, an Act to repeal an Act entitled an Act to authorize the Judges of the Supreme Court to employ a Secretary, approved April 30, 1855, was read third time and passed.

Senate Bill No. 188, an Act to legalize acknowledgments taken by the Recorder and Deputy Recorder of Monterey County, was ordered engrossed and read third time.

Senate Bill No. 142, an Act to prohibit noisy and barbarous amusements and opening places of business on Sunday, being under consideration.

Mr. Norman moved to place the bill at the foot of the Calendar.

Lost.

Amendments reported by the Judiciary Committee April 1st, were rejected.

Mr. Chase moved the indefinite postponement of the bill, upon which the ayes and noes were demanded by Messrs. Mandeville, Taliaferro and Chase, and taken with the following result :

AYES.

Messrs. Chase, Crandall, Johnson of Sacramento, Melony, Merritt, Mesick and Woodworth—7.

NOES.

Messrs. Ashley, Burnett, Cosby, Fiske, Goodwin, Johnson of El Dorado, Mandeville, McCallum, McGee, Norman, Shaw, Soule, Taliaferro and Waite—14.

So the motion to indefinitely postpone was lost.

Question being on the final passage of the bill the ayes and noes were demanded by Messrs. Cosby, Soule and Taliaferro, and taken with the following result:

AYES.

Messrs. Ashley, Burnett, Cosby, Dosh, Fiske, Goodwin, Johnson of El Dorado, Mandeville, McCallum, Norman, Shaw, Soule, Taliaferro, Waite and Woodworth—15.

NOES.

Messrs. Chase, Crandall, Ferguson of Sierra, Johnson of Sacramento, McGee, Melony, Merritt and Mesick—8.

So the bill passed.

On motion of Mr. Norman, the title of the bill was amended by striking out the words "and opening places of business."

Mr. Norman moved to reconsider the vote by which the bill passed.



Mr. Cosby moved to indefinitely postpone the motion to reconsider.

Mr. Melony moved to adjourn.

Lost.

Question on Mr. Cosby's motion to indefinitely postpone the motion to reconsider, was put and carried.

Mr. Cosby moved to adjourn.

Lost.

Senate Bill No. 187, an Act to grant the right of way to H. B. Lathrop, E. S. Lathrop, and others, to bridge Feather River at the village of Oroville, Butte County, was taken up.

Mr. Norman moved to indefinitely postpone the bill.

Lost.

The bill was considered in Committee of the Whole.

After some time spent in so considering the bill, the committee rose and reported the bill back to the Senate with amendments.

In Senate—Amendments adopted in Committee concurred in, and bill ordered engrossed and read third time.

Senate Bill No. 4, a bill for an Act for the better protection of mining interests, was on motion, placed at foot of the calendar.

Senate Bill No. 143, an Act to amend an Act entitled an Act concerning Sheriffs, passed April 29, 1851, with the Assembly amendments, was considered, and the first amendment concurred in.

The Senate refusing to concur in the second amendment, on motion a Committee of Free Conference was appointed, consisting of Messrs. Ashley, Goodwin and Cosby.

Mr. Dosh, by leave, introduced a bill entitled an Act concerning the County Judge of the County of Tehama.

Read first and second time.

On motion of Mr. Ashley, the bill was amended by inserting the County of "Santa Cruz."

On motion, the rules were suspended, the bill considered engrossed, read third time, and passed.

Mr. Woodworth, by leave, made the following report:

*Mr. President :*

The Special Committee, consisting of the San Francisco Delegation, to whom was referred a bill entitled an Act supplemental to an Act to authorize the fund-

ing of the floating debt of the City of San Francisco, beg leave to report that they have carefully examined the bill, and herewith return the same, with amendments, striking out the second and third sections thereof, and unanimously recommend its passage as thus amended.

FRANK. A. WOODWORTH,  
WM. J. SHAW,  
SAM. SOULE.

On motion, the rules were suspended and the bill considered; amendments of committee adopted, rules further suspended, bill considered engrossed, read third time and passed.

Mr. Ashley, by leave, made the following report:

*Mr. President :*

The Judiciary Committee, to whom was referred Assembly Bill No. 349, concerning Judicial Districts, &c., have duly considered the same, and recommend its passage.

D. R. ASHLEY,  
Chairman.

Report accepted and bill placed on calendar.

Mr. Ashley, by leave, made the following report:

*Mr. President :*

The Judiciary Committee have considered Assembly Bill No. 269, an Act to provide for the payment of Volume V. of the Reports of the Supreme Court of California, and propose the amendments thereto attached, and thus amended, recommend the passage of the bill.

D. R. ASHLEY,  
Chairman.

Report accepted and bill placed on the calendar.

On motion, the Senate adjourned.

Approved April 14th, 1857.

R. M. ANDERSON,  
President of the Senate.

Attest:

GEO. S. EVANS, Secretary Senate.

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IN SENATE.

TUESDAY, April 14th, 1857.

Senate met pursuant to adjournment.

President in the chair.

Roll called.

Journals of yesterday read and approved.

On motion of Mr. McCallum, the veto message of the Governor, and accompanying bill, were returned to him, the bill having originated in the Assembly.

On motion, Mr. Bynum was granted leave of absence for two days.

The following message was received from the Assembly:

*Mr. President :*

The Assembly, on Saturday, the 11th inst., passed Assembly Bill No. 379, an Act authorizing the Treasurer of State to issue bonds for the payment of expenses incurred in the suppression of Indian hostilities in certain counties in this State.

April 13th, 1857.

J. W. SCOBEEY,  
Assistant Clerk.

Assembly Bill No. 379, was read first and second times and placed on the calendar.

Mr. Goodwin made the following report :

*Mr. President :*

The Judiciary Committee, to which was referred Senate Bill No. 207, have had the same under consideration and find nothing objectionable in the bill whatever. But as the bill is to introduce water into the City and County of San Francisco, your Committee recommend that it be referred to the delegation from San Francisco.

GOODWIN, of Committee.

Report accepted and bill referred to the delegation from San Francisco.

Mr. Shaw in the chair.

On motion of Mr. Cosby, Senate Bill No. 130, an Act to preserve the sanctity of private reputation and the more effectually to prevent breaches of the peace, was taken up, considered in Committee of the Whole, and reported back to the Senate with amendments.

In Senate—Amendments of the Committee concurred in.

Mr. McCallum moved to indefinitely postpone the bill.

Mr. Westmoreland moved to lay the bill on the table, which was lost.

After much debate, the question recurring on the motion to indefinitely postpone, the ayes and noes were demanded by Messrs. Cosby, Soule and McCallum, and taken with the following result:

AYES.

Messrs. Ashley, Burnett, Bynum, Chase, Dosh, Ferguson of Sierra, Goodwin, Johnson of Sacramento, Mandeville, McCallum, McGee, Mesick, Shaw, Soule, Sullivan, Waite, Westmoreland and Woodworth—18.

## NOES.

Messrs. Cosby, Crandall, Johnson of El Dorado, Melony, Merritt and Taliaferro—6.

Mr. Bell declined voting.

So the bill was indefinitely postponed.

Mr. Westmoreland gave notice that on to-morrow he should move to reconsider the vote by which the Senate indefinitely postponed the bill.

## GENERAL FILE.

Assembly Bill No. 299, an Act to authorize the Board of Supervisors of Humboldt County to levy a Special Tax for certain purposes, and to provide for the collection of the same, was on motion, read a third time and passed.

Assembly Bill No. 280, an Act to provide for the incorporation of Yreka City, was read third time and passed.

Assembly Bill No. 148, an Act to ascertain the amount of Indebtedness due from the County of Napa to the County of Solano, and provide for the payment of the same, with substitute reported by committee on the 3d of April, was considered.

On motion, the substitute was adopted, read first and second times, the rules further suspended, bill considered engrossed, read a third time and passed.

Senate Bill No. 186, an Act to authorize the Executors of Joseph L. Folsom, deceased, to sell real estate of their Testator at private sale, was taken up.

Mr. Ferguson of Sacramento, moved to indefinitely postpone the bill.

Mr. Ashley moved to place the bill at the foot of the calendar, which was carried.

Assembly Bill No. 337, an Act to authorize the Board of Supervisors of Alameda County to levy a Special Tax, was read a third time and passed.

Assembly Bill No. 263, an Act to amend an Act entitled an Act to amend an Act to provide for the Incorporation of Railroad Companies, passed April 22d, 1853, was taken up and considered in Committee of the Whole, and reported back without amendment.

In Senate. Bill read a third time.

Mr. Norman moved to indefinitely postpone the bill.

Mr. Waite moved to place the bill at the foot of the calendar.

After much debate, Mr. Norman moved the previous question, which was not sustained.



Mr. Ashley moved to recommit the bill, upon which the ayes and noes were demanded by Messrs. Norman, Mandeville and Melony, and taken with the following result:

**AYES.**

Messrs. Ashley, Bell, Bynum, Chase, Cosby, Ferguson of Sacramento, Johnson of Sacramento, Merritt, Mesick, Shaw, Sullivan, Taliaferro, Waite, Westmoreland and Woodworth—15.

**NOES.**

Messrs. Crandall, Dosh, Fiske, Johnson of El Dorado, Mandeville, McCallum, Melony, Norman and Soule—9.

So the bill was recommitted.

Assembly Bill No. 300, an Act amendatory of and supplementary to an Act to Incorporate the City of Sacramento, passed March, 1851, reported from committee on the 6th inst. with a substitute. Substitute adopted, read a first and second times, and further considered in Committee of the Whole.

After some time spent in consideration of the bill, the committee rose and reported back the bill.

In Senate. Rules further suspended, bill considered engrossed, read a third time and passed.

Mr. Crandall, Chairman of the Committee on Enrolled Bills, made the following report:

*Mr. President:*

Your Committee on Enrollment have examined and found correctly enrolled, an Act to amend an Act entitled an Act to repeal the various Charters of the City of San Francisco, to define the Boundaries of the City and County of San Francisco, and to consolidate the Government thereof.

Also, an Act relating to the Hospital Affairs of Tuolumne County.

Also, an Act to authorize Maria Ygnacia, wife of Jarvier Alviso, and Maria Juana, wife of Jose Rochine, to sell and convey real estate.

**D. CRANDALL.**

Senate Bill No. 105, an Act concerning Notaries Public, was taken up and considered.

Mr. Norman moved a call of the Senate.

Lost.

Mr. Norman then moved to lay the bill on the table.

Lost.

Mr. Norman then moved to indefinitely postpone the bill.

Mr. Merritt rose to a point of order, "A motion to indefinitely postpone had been voted down since the engrossment of the bill and could not be again entertained.

The Chair decided the point not well taken.

Mr. Mandeville moved to recommit the bill, with instructions to report a bill submitting the election of Notaries Public to the people.

Upon which, the ayes and noes were demanded by Messrs. McGee, Norman, and Woodworth, and taken with the following result :

AYES.

Messrs. Burnett, Crandall, Dosh, Mandeville, McCallum, McGee, Melony, Norman, Shaw, Soule, Sullivan and Woodworth—12.

NOES.

Messrs. Ashley, Bynum, Cosby, Ferguson of Sacramento, Fiske, Johnson of Sacramento, Johnson of El Dorado, Merritt, Mesick, Taliaferro, Waite and Westmoreland—12.

Mr. Bell declined voting.

So the Senate refused to recommit.

Mr. Mandeville then moved to recommit the bill with instructions to report a bill leaving out Tuolumne, Stanislaus, San Francisco and El Dorado.

After much debate, Mr. Westmoreland moved the previous question.  
Sustained.

Question—"Shall the main question be now put?"

The ayes and noes were demanded by Messrs. Soule, Norman and Woodworth, with the following result:

AYES.

Messrs. Ashley, Bynum, Cosby, Dosh, Ferguson of Sacramento, Fiske, Johnson of Sacramento, Johnson of El Dorado, McGee, Melony, Merritt, Mesick, Taliaferro, Waite, Westmoreland and Woodworth—16.

NOES.

Messrs. Burnett, Crandall, Mandeville, McCallum, Norman, Shaw, Soule and Sullivan—8.

Mr. Bell declined voting.

So the main question was ordered put.

The main question being the motion to recommit, with instructions to strike out certain counties, was then put, upon which the ayes and noes were demanded by Messrs. Mandeville, Johnson of El Dorado, and Norman, and taken with the following result :

AYES.

Messrs. Burnett, Crandall, Dosh, Mandeville, McCallum, McGee, Norman, Shaw, Soule, Sullivan and Woodworth—11.

## NOES.

Messrs. Ashley, Bynum, Cosby, Ferguson of Sacramento, Fiske, Johnson of Sacramento, Johnson of El Dorado, Melony, Merritt, Mesick, Taliaferro, Waite and Westmoreland—13.

Mr. Bell declined voting.

So the motion to recommit was lost.

The question recurring on Mr. Norman's motion to indefinitely postpone the bill, the ayes and noes were demanded by Messrs. Norman, Burnett and Mandeville, and taken with the following result:

## AYES.

Messrs. Burnett, Crandall, Dosh, Mandeville, McCallum, McGee, Norman, Shaw, Soule, Sullivan and Woodworth—11.

## NOES.

Messrs. Ashley, Bynum, Cosby, Ferguson of Sacramento, Fiske, Johnson of Sacramento, Johnson of El Dorado, Melony, Merritt, Mesick, Taliaferro, Waite and Westmoreland—13.

Mr. Bell declined voting.

So the Senate refused to indefinitely postpone.

The question being "Shall the bill pass?" the ayes and noes were demanded by Messrs. Soule, Norman and Melony, and taken with the following result:

## AYES.

Messrs. Ashley, Bynum, Cosby, Ferguson of Sacramento, Fiske, Johnson of Sacramento, Johnson of El Dorado, Melony, Merritt, Mesick, Taliaferro, Waite and Westmoreland—13.

## NOES.

Messrs. Burnett, Crandall, Dosh, Mandeville, McCallum, McGee, Norman, Shaw, Soule, Sullivan and Woodworth—11.

Mr. Bell declined voting.

So the bill was passed.

Mr. Merritt moved to reconsider the vote by which the bill passed.

Mr. Cosby moved to indefinitely postpone the motion to reconsider.

Mr. Mandeville moved to lay the motion to indefinitely postpone on the table.

Mr. Mandeville then moved a call of the Senate.

Upon which the ayes and noes were demanded by Messrs. Mandeville, Norman and Burnett, and taken with the following result:

## AYES.

Messrs. Crandall, Mandeville, McGee, Norman, Shaw, Soule, Sullivan and Woodworth—9.

## NOES.

Messrs. Ashley, Bynum, Cosby, Dosh, Ferguson of Sacramento, Fiske, Johnson of Sacramento, Johnson of El Dorado, McCallum, Melony, Merritt, Mesick, Taliaferro, Waite and Westmoreland—15.

Mr. Bell declined voting.

So the motion for a call of the Senate was lost.

Mr. Merritt moved the previous question.

Sustained.

Question, "Shall the main question be now put?" upon which the ayes and noes were demanded by Messrs. Mandeville, Norman and Burnett, and taken with the following result:

## AYES.

Messrs. Ashley, Bynum, Cosby, Dosh, Ferguson of Sacramento, Fiske, Johnson of Sacramento, Johnson of El Dorado, McCallum, Melony, Merritt, Mesick, Taliaferro, Waite and Westmoreland—15.

## NOES.

Messrs. Burnett, Mandeville, McGee, Norman, Shaw, Soule, Sullivan and Woodworth—8.

Mr. Bell declined voting.

So the main question was ordered put.

Main question being on the motion of Mr. Mandeville to lay the motion to indefinitely postpone the motion to reconsider on the table, the ayes and noes were demanded by Messrs. Mandeville, Burnett and Woodworth, and taken with the following result:

## AYES.

Messrs. Burnett, Crandall, Dosh, Ferguson of Sierra, Mandeville, McGee, Norman, Shaw, Soule, Sullivan and Woodworth—11.

## NOES.

Messrs. Ashley, Bynum, Cosby, Ferguson of Sacramento, Fiske, Johnson of Sacramento, Johnson of El Dorado, McCallum, Melony, Merritt, Mesick, Taliaferro, Waite and Westmoreland—14.

Mr. Bell declined voting.

So the Senate refused to lay the motion to indefinitely postpone on the table.

Question recurring on the motion of Mr. Cosby to indefinitely postpone the motion to reconsider, the ayes and noes were demanded by Messrs. Maudeville, Norman and Burnett, and taken with the following result:

## AYES.

Messrs. Ashley, Bynum, Cosby, Ferguson of Sacramento, Fiske, Johnson of Sacramento, Johnson of El Dorado, Melony, Merritt, Mesick, Taliaferro, Waite and Westmoreland—13.



## NOES.

Messrs. Burnett, Crandall, Dosh, Mandeville, McCallum, Norman, Shaw, Soule, Sullivan and Woodworth—10.

Messrs. Bell, Ferguson of Sierra, and McGee declined voting.

So the motion to indefinitely postpone the motion to reconsider was carried.

Mr. Norman moved to take up Assembly Bill No. 166, an Act to provide Revenue for the Support of the Government of this State from a Tax to be levied and collected from Foreign and Inland Bills and other matters.

Mr. Norman moved a call of the Senate.

Carried.

Absent members appearing at the bar of the Senate, on motion, they were admitted, and further proceedings under the call suspended.

Mr. Ashley moved to adjourn, upon which the ayes and noes were demanded by Messrs. Mandeville, Norman and Woodworth, and taken with the following result:

## AYES.

Messrs. Ashley, Bell, Bynum, Chase, Crandall, Dosh, Ferguson of Sierra, Johnson of Sacramento, McGee, Melony, Mesick, Sullivan, Waite and Woodworth—14.

## NOES.

Messrs. Johnson of El Dorado, Mandeville, McCallum, Merritt, Norman Shaw and Soule—7.

Messrs. Burnett, and Fiske declined voting.

So the Senate adjourned.

Approved April 14th, 1857.

R. M. ANDERSON,  
President of the Senate.

Attest:

GEO. S. EVANS, Secretary Senate.

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 IN SENATE.

WEDNESDAY, April 15th, 1857.

Senate met pursuant to adjournment.

The President in the Chair.

Roll called.

Journals of yesterday read and approved.

Mr. Melony, Chairman of the Committee on Engrossment, made the following report:

*Mr. President :*

The Committee on Engrossed Bills have examined and found correctly engrossed Senate Bill No. 187, entitled an Act to grant the right of way to construct a Bridge across the Feather River at the City of Oroville, in Butte County, to certain persons therein named.

Also, Senate Bill No. 188, entitled an Act to legalize acknowledgments taken by the Recorder and Deputy Recorder of the county of Monterey.

A. R. MELONY,

Chairman.

April 14, 1857.

Mr. McGee made a verbal report relative to Assembly Bill No. 385, an Act to repeal an Act entitled an Act amendatory of an Act entitled an Act concerning County Judges, passed April 4th, 1854; and also an Act passed April 30, 1855, amendatory of the above recited Act, approved April 18th, 1856, recommending its passage.

Report accepted.

Mr. McGee moved to suspend the rules and take up the bill, which was lost, and the bill placed on the calendar.

Mr. Johnson of El Dorado, made a verbal report relative to Assembly Bill No. 358, an Act to amend an Act entitled an Act to Incorporate the Town of Placerville, (passed May 13th, 1854.) recommending its passage.

Report accepted, and bill placed on calendar.

The following message was received from the Assembly:

*Mr. President :*

I am directed to inform the Senate that the Assembly on yesterday adopted the report of the Committee of Free Conference on Assembly Bill No. 10, an Act to amend an Act entitled an Act defining the rights of Husband and Wife, passed April 17th, 1850.

J. W. SCOBEEY,

Assistant Clerk.

April 14, 1857.

The following message was received from the Assembly:

*Mr. President :*

The Assembly on the 11th inst. passed Assembly Bill No. 398, an Act to amend an Act fixing the Time of holding the several Courts authorized to be held by the County Judge in the county of Alameda, passed March 10, 1854.

J. W. SCOBEEY,

Assistant Clerk.

April 11, 1857.

Assembly Bill No. 398 was read first and second times and placed on the calendar.

The following message was received from the Assembly :

*Mr. President:*

I am directed to inform the Senate that the Assembly on yesterday the 13th

inst. indefinitely postponed Senate Bill No. 102, an Act to authorize the Board of Supervisors in and for the county of Shasta to levy a Special Tax for the erection of Public Buildings in said county.

Also, adopted concurrent resolution instructing the Attorney General to bring suit against certain County Treasurers.

Also, resolution relative to certain mail routes in California.

Also, passed Assembly Bill No. 255, an Act concerning apprentices.

Also, passed Senate Bill No. 156, an Act amendatory of and supplementary to an Act for the protection of game, passed May 13th, 1854.

Also, amended and passed Senate Bill No. 214, an Act to authorize Jackson Prouty to construct a wagon road from Mokelumne Hill to a point on the Stockton road at or near the Golden Gate Rancho, in the County of Calaveras, and ask the concurrence of the Senate in the amendments.

W. CAMPBELL,  
Clerk of Assembly.

April 14, 1857.

Mr. Mandeville in the chair.

Mr. Norman moved to suspend the rules and consider Senate Bill No. 214, which was carried, and Assembly amendment adopted.

Assembly concurrent resolution instructing the Attorney General to bring suit against certain County Treasurers, was taken up.

Mr. Norman moved to strike out the words "Attorney General" where it occurs, and insert "District Attorneys"

Mr. McCallum moved to lay the resolution on the table, which was lost.

Mr. McCallum then moved to refer the resolution to the Judiciary Committee.

Mr. Dosh moved to refer to a special committee of three, with special instructions to report by bill or otherwise.

The question being on Mr. McCallum's motion to refer to the Judiciary Committee, was put and lost.

Question recurring on Mr. Dosh's motion to refer to a special committee of three, was put and carried.

The Chair appointed as such committee, Messrs. Norman, Shaw and Soule.

Assembly concurrent resolution relative to a certain mail route in California, was read and referred to the Committee on Federal Relations.

Assembly Bill No. 255, an Act concerning apprentices, was read first and second times and referred to the Judiciary Committee.

Mr. Woodworth made the following report:

*Mr. President :*

A minority of the special committee consisting of the San Francisco Delega-

tion, to whom was referred Senate Bill No. 207, an Act to authorize the introduction of water into the City and County of San Francisco, having carefully examined the bill, would respectfully recommend that the same be indefinitely postponed.

Respectfully,

F. A. WOODWORTH.

Mr. Shaw made the following report:

*Mr. President :*

The special committee to whom was referred an Act to introduce water into the City and County of San Francisco, report that they have considered the same and recommend its passage after the adoption of the amendments herewith submitted.

W. J. SHAW,  
SAM'L SOULE,  
E. L. SULLIVAN.

Amend as follows:

Section 4. Add at the end of section four the following: "And if the same be not so replaced, in the opinion of the Superintendent of Streets and Highways, he shall notify the company thereof or repair the same at the expense of the company, and said company shall be liable for the expense of all necessary repairs so made.

Line 9, Section 6, after the word "value," insert "whenever and as often as such proposition to purchase shall be made or renewed on the part of said city and county."

Same section, (6) line 11, after the word "them," insert "when approved by the said city and county."

Section 11. The aforesaid company shall have four months from and after the passage of this Act, in which to accept or reject the rights herein conveyed upon the terms hereinbefore expressed. If they accept, they shall give written notice thereof to the President of the Board of Supervisors of said city and county, within the said four months, and shall at the same time deposit in the Treasury of the City and County of San Francisco, the sum of twenty thousand dollars, to secure the faithful performance of the conditions, contracts, and undertakings hereinbefore specified. And in case the said company shall fail to comply with any one or more of them, in the times and in the manner and extent hereinbefore mentioned, then the said sum shall become and be the property of the said city and county, and the Treasurer shall thereupon place the same to the credit of the School Fund of said city and county.

Section 12. Nothing contained in this Act shall be held or construed to take away the rights heretofore held and enjoyed by the Mountain Lake Water Company, or any other company heretofore or hereafter organized under the authority of law for the purpose of supplying said city and county with water.

Report accepted, and with bill placed on calendar.

Mr. Crandall, Chairman of the Enrollment Committee, made the following report.

*Mr. President :*

Your Committee on Enrollment presented to the Governor, on the 1st, for his approval:

An Act to amend an Act entitled an Act to repeal the various Charters of



the City of San Francisco, to define the boundaries of the City and County of San Francisco, and to consolidate the Government thereof.

Also, an Act relating to the Hospital Officers of Tuolumne County.

Also, an Act to authorize Maria Ignacia, wife of Javier Alvisa, and Maria Juana, wife of Jose Rochine, to sell and convey real estate.

D. CRANDALL.

The following message was received from the Governor:

EXECUTIVE DEPARTMENT,  
Sacramento, April 14th, 1857. }

*To the Senate of California :*

I have this day approved an Act relating to the Hospital affairs of Tuolumne County.

Also, an Act to authorize Maria Ignacia, wife of Javier Alvisa, and Maria Juana, wife of Rochine, to sell and convey real estate.

J. NEELY JOHNSON.

The following message was also received from the Governor:

EXECUTIVE DEPARTMENT,  
Sacramento, April 14th, 1857. }

*To the Senate of California :*

I have this day approved an Act to legalize certain Conveyances.

J. NEELY JOHNSON.

On motion of Mr. Mesick, the rules were suspended, and Senate bill No. 219, an Act concerning Taxes for the support of Common Schools in the City and County of San Francisco, was taken up and considered in Committee of the Whole, and reported back with an amendment.

In Senate.—Amendment of Committee concurred in, rule suspended, bill considered engrossed, read a third time, and passed.

Mr. McCallum gave notice that on to-morrow, he will move to strike out from the Standing Rules of the Senate, Rule No. 20.

#### GENERAL FILE.

Assembly Joint Resolution No. 6, asking Congress to donate to the Counties in this State which have not nor will not be surveyed, the amount of lands to which said Counties would be entitled for school purposes, had the same been made, was taken up.

Mr. Melony offered a substitute, which was read and considered.

Mr. Ashley offered the following amendment: Strike out the words, "In the mineral portions," where it occurs in the second resolution.

Adopted.

Mr. Norman moved to insert in the second resolution, the word "agricultural," after the word "public," in said second resolution.

Adopted.

The substitute, as amended, was then adopted, read first and second times, rules further suspended, read third time, and passed.

Senate Bill No. 201, an Act authorizing Chas. J. Collins to build a Wharf at or near Point Collburg, in Solano County, was taken up, with substitute reported by the Committee on Commerce and Navigation on the 6th inst.

On motion, the substitute was adopted; read first and second times, rules further suspended, considered engrossed, read a third time and passed.

Senate Bill No. 200, an Act to authorize the Main Street Wharf Company to build a Wharf in the county of Solano, was read a third time and passed.

Assembly Bill No. 236, an Act to regulate Fees in Office in certain counties in this State, with amendments reported by the Committee on Claims on the 6th inst., was considered in Committee of the Whole.

After some time spent in consideration of the bill and amendments, the committee rose and reported the same back with amendments.

In Senate. Amendments of Committee adopted.

Pending further action upon the bill, on motion of<sup>\*</sup> Mr. Burnett, Senate took a recess of five minutes to prepare for the trial of George W. Whitman, Controller of State.

The Senate reassembled at the time appointed.

The President presiding.

Roll called.

The President announced the suspension of all Legislative and Executive business, and that the Senate was organized as a High Court of Impeachment for the trial of Geo. W. Whitman, Controller of State.

Whereupon the Secretary notified the Assembly of the organization of the Court, and the Sergeant at-Arms made proclamation of the same at the door of the Senate.

The managers on the part of the Assembly, the defendant and counsel being present, the managers submitted the following order:

In the matter of the impeachment of Geo. W. Whitman, Controller of State: The Committee of Managers on behalf of the people of this State, and of the Assembly, move this honorable Court, in view of the absence of W. Willis, whose attendance has been procured on the part of the prosecution, to continue this cause, so far as the charges contained in article 5th of the articles of impeachment are concerned, to such time as this Court in its discretion may fix.

Rejected by the following vote:

AYES.

Messrs. Norman and Sullivan—2.

NOES.

Messrs. Ashley, Bell, Burnett, Bynum, Chase, Cosby, Crandall, Dosh, Fer-

gunson of Sierra, Fiske, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, McGee, Mesick, Shaw, Soule, Taliaferro, Westmoreland and Woodworth—21.

Mr. Woodworth offered the following order:

*Ordered*, That the counsel for the defense be required to proceed with their case, and that the right be reserved to the managers in behalf of the people, to introduce at the close of the defense, the recusant witness, Willis, if they so desire it, which was adopted by the following vote:

AYES.

Messrs. Crandall, Dosh, Ferguson of Sierra, Fiske, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McGee, Norman, Westmoreland and Woodworth—11.

NOES.

Messrs. Ashley, Burnett, Bynum, Chase, Cosby, Mesick, Shaw, Soule and Taliaferro—9.

Messrs. Bell and Sullivan declined voting.

James Allen was then called on the part of the defense and examined, having been previously sworn by the Secretary, witness proceeded to authenticate a certain publication in the "State Tribune" newspaper.

Mr. Merritt presiding.

Managers on the part of the Assembly objected to the further reading of the publication.

The Chair ruled that the evidence was admissible, and there being no objection on the part of the Court the counsel for defense proceeded to read the publication.

Lieut. Governor R. M. Anderson was next called by the defendant and duly sworn, examined and cross examined.

Counsel for the defence presented a certain statement in writing as the evidence of James Estell, and asked the managers to admit the same as true. The managers refusing to admit that James Estell would swear to the statement if present, the statement was ruled out.

David F. Douglass, Secretary of State, was next called by the defendant, and having been previously sworn, was examined and cross examined.

Mr. Vaughan, a witness previously sworn, was recalled and examined on the part of the defense.

Counsel for defendant here announced that they rested.

D. D. Kingsbury, was called and sworn on the part of the State, as a rebutting witness, and examined, after which the managers announced that they closed their case.

In order that counsel might prepare for argument of the cause, Mr. Dosh offered the following order.

*Ordered*, That this Court adjourn until 12 o'clock, M., of Friday next, which was adopted by the following vote:

AYES.

Messrs. Ashley, Bell, Chase, De la Guerra, Dosh, Ferguson of Sierra, Fiske, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, McGee, Merritt, Mesick, Norman, Shaw, Sullivan, Waite, Westmoreland and Woodworth—20.

NOES.

(Names not copied by clerk)—4.

### IN SENATE.

Assembly Bill No. 236, an Act relative to fees in office under consideration, when the Senate took a recess to organize as a Court of Impeachment, was further considered.

On motion of Mr. Cosby, Tulare, Fresno and Humboldt Counties, were stricken from the bill.

Mr. Johnson of Sacramento, moved to strike out the first and second lines in the twelfth section of the bill, which was adopted.

The question being "Shall the bill be read a third time?" was put and carried.

Mr. Fiske called for the reading of the bill in full, and the Secretary proceeded to read.

Mr. Dosh moved that the further reading of the bill be dispensed with, which was carried.

Mr. De la Guerra moved to insert Santa Barbara and San Luis Obispo, which was carried.

Mr. Dosh moved to read the bill a third time by title.

Mr. McCallum rose to a point of order—"A motion to read the bill had been adopted: a motion to read by title was, therefore, not in order."

The Chair ruled the point of order well taken.

The question being: "Shall the decision of the Chair stand as the judgment of the Senate?"—the ayes and noes were demanded by Messrs. Dosh, McCallum and Westmoreland, and taken with the following result:

AYES.

Messrs. Bell, Fiske, Johnson of El Dorado, Mandeville, McCallum, Melony, Norman, Shaw, Soule, Sullivan, Taliaferro and Woodworth—12.

NOES.

Messrs. Ashley, Burnett, Cosby, Crandall, De la Guerra, Dosh, Johnson of Sacramento, Mesick and Westmoreland—9.



So the decision of the Chair was sustained and reading of the bill resumed.

Mr. Cosby moved to adjourn—Lost. Reading again resumed, Mr. Fiske moved to adjourn. Also lost.

Question, being on the final passage of the bill, was put and carried.

Mr. Sullivan made the following report:

*Mr. President:*

The Committee on Engrossed Bills have examined Senate Bill No. 219, entitled an Act concerning Taxes for the support of Common Schools in the City and County of San Francisco, and find the same correctly engrossed.

E. L. SULLIVAN,  
Of the Committee.

The following message was received from the Assembly :

*Mr. President:*

The Assembly, on the 13th instant, passed—

Assembly Bill No. 235, an Act concerning the records and proceedings of the Courts of Sessions, County Courts and Probate Courts of this State, and the Superior Court of the City of San Francisco.

Also, Assembly Bill No. 362, an Act providing for the transfer of suits or actions, pending in the Superior Court of the City of San Francisco, to the District Court of the Twelfth Judicial District, in certain cases.

Also, have this day passed Senate Bill No. 219, an Act concerning taxes for the support of Common Schools in the City and County of San Francisco.

J. W. SCOBEE,  
Assistant Clerk.

April 15, 1857.

Assembly Bill No. 235, was read first and second times, and referred to the Judiciary Committee.

Assembly Bill No. 362, was read first and second times, and referred to the San Francisco Delegation.

Mr. Soule, by leave, introduced a bill entitled an Act to authorize Priscilla H. Denham to sell certain real estate belonging to her minor children.

Read first and second times and referred to the Judiciary Committee.

Mr. Taliaferro moved to adjourn.

Lost.

On motion of Mr. Mandeville, Assembly Bill No. 166, an Act to provide revenue for the support of Government from a tax on foreign and inland bills, &c., was taken up.

Pending the consideration of which, Mr. Johnson, of Sacramento, moved to adjourn.

Upon which the ayes and noes were demanded by Messrs. Norman, Ashley and Soule, and taken with the following result:

## AYES.

Messrs. Bell, Chase, Cosby, Crandall, De la Guerra, Ferguson of Sacramento, Mandeville, Melony, Mesick, Sullivan, Taliaferro, Westmoreland and Woodworth—13.

## NOES.

Messrs. Ashley, Burnett, Dosh, Johnson of El Dorado, McCallum, Merritt, Norman, Shaw, Soule and Waite—10.

So the Senate adjourned.

Approved April 16th, 1857.

S. H. DOSH,  
President Senate pro tem.

Attest:

GEO. S. EVANS, Secretary Senate.

## IN SENATE.

THURSDAY, April 16, 1857.

Senate met pursuant to adjournment.

The President *pro tem.* in the chair.

Roll called

Journals of yesterday read and approved.

Mr. Coffroth was granted indefinite leave of absence from Monday last.

Mr. Woodworth made the following report:

*Mr. President :*

The special committee consisting of the San Francisco delegation, to whom was referred Assembly Bill No. 362, an Act providing for the transfer of suits or actions pending in the Superior Court of the City of San Francisco, to the District Court of the Twelfth Judicial District in certain cases, have carefully examined said bill and respectfully recommend its passage.

F. A. WOODWORTH,  
E. L. SULLIVAN,  
SAM'L SOULE.

Report accepted and bill placed on file.

Mr. Mesick, Chairman of the Committee on Education, made the following report:

*Mr. President :*

Your Committee on Education, to which was referred Assembly Bill No. 257, an Act authorizing the location and patenting of school lands, having had it under consideration, report the same back with amendments, and recommend its passage as amended.

R. S. MESICK, Chairman.

Amend section one by inserting in line thirteen, between words "application" and "specifically" the following: "of such owner or owners."

Amend section two, by inserting in line seventeen, between words "affidavit" and "of" the following: "of the party or parties applicant and."

Report accepted and with bill and amendments placed on calendar.

Mr. Taliaferro, by leave, introduced an Act to authorize the Board of Supervisors of Marin County, to pay the current expenses of said county, which was read first and second times, rules further suspended, considered engrossed, read a third time and passed.

Mr. Woodworth, by leave, introduced an Act authorizing the Board of Supervisors of the City and County of San Francisco, to appropriate any public building belonging to said city and county for the purposes of a public hospital, which was read first and second times, rules further suspended, considered engrossed, read third time and passed.

Mr. McCallum by leave introduced an Act to amend an Act to regulate fees in office, approved April 10th, 1855.

Read first and second times and referred to the Judiciary Committee.

On motion of Mr. Mandeville, concurrent resolution relative to an adjournment of the Legislature was taken up.

Mr. Mandeville moved to strike out the "6th" of April, and insert the "27th."

Mr. Soule moved to insert the "20th."

A division of the question having been called for the question on striking out, was put and carried.

The question being taken on inserting the "20th," was put and lost.

The question recurring on inserting the "27th," Mr. Norman moved the previous question.

Sustained.

Question, "Shall the main question be now put?" was put and carried.

The main question being on inserting the 27th instant, the ayes and noes were demanded by Messrs. Mandeville, Norman and De la Guerra, and taken with the following result:

AYES.

Messrs. Ashley, Bell, Burnett, Carpenter, Chase, Crandall, De la Guerra, Dosh, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, McGee, Melony, Merritt, Mesick, Norman, Shaw, Soule, Sullivan, Taliaferro, Westmoreland and Woodworth—26.

NOES.

Messrs. Cosby and Fiske—2.

So the amendment was adopted.

The question being on the adoption of the resolution as amended, was put and carried.

On motion of Mr. Goodwin, the additional standing rule, offered on the 13th inst., was taken up and considered.

Mr. Mandeville moved to strike out "5," and insert "10"

Carried.

The rule as amended was then adopted.

Mr. McCallum, in accordance with notice given yesterday, moved to abolish Rule XX, of the Senate.

Adopted.

The following message was received from the Assembly:

*Mr. President.*

I am directed to inform the Senate that the Assembly on yesterday passed the following Assembly bills:

Assembly Bill No. 337, an Act to amend an Act entitled an Act to amend the 182d section of an Act concerning Corporations, passed April 22, 1850, passed May 3d, 1852.

Also, Assembly Bill No. 374, an Act to grant the right to construct a Bridge across the American River between the city of Sacramento and the American township to a certain person therein named.

Also, Assembly Bill No. 329, an Act to authorize the Board of Supervisors of Yuba County to levy a Special Tax to be applied towards the construction of a Wagon Road through Yuba, Butte and Plumas Counties, to intersect the Government Road to Honey Lake, Plumas County.

Also, Assembly Bill No. 198, an Act to repeal an Act entitled an Act to authorize Married Women to transact business in their own name as Sole Traders.

Also, have passed the following Senate bills:

Senate Bill No. 224, an Act concerning the County Judge of the counties of Tehama and Santa Clara.

Also, Senate Bill No. 216, an Act supplemental to an Act to authorize the funding of the floating Debt of the city of San Francisco and to provide for the payment of the same, approved May 1st, 1851.

Also, that the Assembly have concurred in Senate amendment to Assembly Bill No. 172, an Act to fix the compensation of certain Officers in the counties of Santa Clara, Santa Cruz, Sonoma, Monterey, Mariposa, Butte, Colusa, Napa, Yolo, San Joaquin and Yuba, except that amendment relating to Alameda county, upon which the House have appointed Messrs. Larue, Wyman and Inman, as a committee of Free Conference on the part of the Assembly, and respectfully ask the appointment of a similar committee on the part of the Senate.

W. CAMPBELL,

April 16, 1857.

Clerk of Assembly.

Assembly Bill No. 337 was read first and second times and referred to the Judiciary Committee.



Assembly Bill No. 374 was read first and second times and referred to the Committee on Commerce and Navigation.

Assembly Bill No. 399 was read first and second times and referred to the Delegations from Yuba, Butte and Plumas Counties.

Assembly Bill No. 198 was read first and second times.

Mr. Mandeville moved to further suspend the rules and read the bill a third time, which was lost.

On motion, the Bill was referred to the Judiciary Committee.

Assembly Bill No. 179, returned from the Assembly disagreeing upon Senate amendments. On motion, a Committee of Free Conference was appointed to confer with a like committee on the part of the Assembly.

The Chair appointed as such committee, Messrs. Bell, Melony and Ashley.

#### GENERAL FILE.

Senate Bill No. 187, an Act to grant the right of way to construct a Bridge across the Feather River at the City of Oroville, in Butte County, to certain persons therein named, was read a third time.

Mr. Mandeville moved to indefinitely postpone the bill.

Mr. Norman moved a suspension of the rules that he might offer an additional rule, which was carried.

Mr. Norman offered the following:

Senate Rule No. 45: The President shall decide all points of order without debate, and all appeals from any decisions of the President shall be decided by the Senate without debate:

Upon which, the ayes and noes were demanded by Messrs. Ashley, Fiske and Mandeville, and taken with the following result:

#### AYES.

Messrs. Chase, Cosby, Crandall, De La Guerra, Ferguson of Sacramento, Goodwin, Johnson of El Dorado, McGee, Melony, Norman, Shaw, Soule, Taliaferro and Woodworth—14.

#### NOES.

Messrs. Ashley, Bell, Burnett, Bynum, Carpenter, Dosh, Ferguson of Sierra, Fiske, Johnson of Sacramento, Mandeville, McCallum, Mesick, Sullivan, Waite and Westmoreland—15.

So the additional rule was rejected.

The question recurring on the motion of Mr. Mandeville to indefinitely postpone Senate bill No. 187, it was put and lost.

Mr. Westmoreland moved to strike out Section five.

Mr. Goodwin moved to recommit the bill to the Delegation from Placer, with special instruction.

Carried.

The hour having arrived for the consideration of the special order of the day, Assembly bill No. 267, an Act to reorganize and establish the County of San Mateo, was taken up and considered in Committee of the Whole, and reported back to the Senate, with amendments.

In Senate—Amendments adopted.

Mr. Goodwin moved to indefinitely postpone the bill.

Lost.

The bill was then read a third time and passed.

#### GENERAL FILE RESUMED.

Senate bill No. 188, an Act to legalize acknowledgments taken by the Recorder and Deputy Recorder of Monterey County, was read a third time and passed.

Assembly bill No. 160, an Act to provide for the Payment of the Debt of Santa Cruz County, with amendments reported by Committee April 6th, was considered, amendments adopted, and by unanimous consent the provision of first section was stricken out, bill read a third time, and passed as amended.

Mr. Westmoreland, by leave, made the following report :

*Mr. President :*

The undersigned, to whom was referred Senate bill No. 187, entitled an Act to grant the right of way to construct a Bridge across Feather river, at the city of Oroville, in Butte County, to certain persons therein named, begs leave to return the same, and in conformity with the instructions of the Senate, recommend the following amendments :

In Section five, strike out the words "arrest the party so offending, and may impose and collect a fine of five dollars for each and every offence, and may also."

WESTMORELAND.

Report accepted and amendment adopted, rules suspended, bill considered engrossed, and read a third time.

The question being, "Shall the bill pass?" the ayes and noes were demanded by Messrs. Melony, McGee and McCallum, and taken with the following result:

AYES.

Messrs. Ashley, Bell, Burnett, Cosby, Crandall, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Johnson of El Dorado, McGee, Melony, Merritt, Mesick, Soule, Sullivan, Taliaferro, Waite, Westmoreland and Woodworth—22.

NOES.

Messrs. Carpenter, Mandeville and McCallum—3.

Mr. Shaw declined voting.

So the bill was passed.

Assembly Bill No. 354, an Act to amend an Act to fix the time of holding the District Court in the Third Judicial District, approved April 5, 1856, was read a third time and passed.

Assembly Bill No. 97, an Act amendatory of and supplementary to an Act concerning divorces, passed March 5th, 1851, with amendments reported from the Judiciary Committee on the 8th inst., was considered, amendments of Committee adopted, bill read a third time and passed.

Assembly Bill No. 309, an Act relative to the issues of fact proved in the Probate Court, with amendments reported by the Judiciary Committee on the 8th inst., was considered and amendments of Committee adopted.

Mr. Bell moved to lay the bill on the table, which was carried.

Assembly Bill No. 239, an Act supplemental to an Act entitled an Act to create a Board of Commissioners to examine the claims of the citizens of the Counties of Klamath, Siskiyou and Humboldt, and report to the Governor of this State the amount of just claims held by the citizens of those counties for services rendered and supplies furnished to the troops and volunteers engaged in the suppression of Indian hostilities, in the years 1852, 1853 and 1855, passed April 18th, 1856, was read a third time and passed.

Senate Bill No. 212, an Act to amend an Act to regulate proceedings in civil cases, in the Courts of Justice of this State, passed April 29th, 1851, reported by the Judiciary Committee, as a substitute for Senate Bills 14, 123 and 124, on the same subject was taken up, considered in Committee of the Whole, and reported back without amendments.

In Senate—Substitute adopted, and on motion of Mr. Chase made the special order of the day for Monday next, the 20th inst., at half past ten o'clock.

On motion of Mr. Cosby, 240 copies of the bill were ordered printed.

Mr. Crandall, Chairman of the Committee on Enrolment, made the following report:

*Mr. President :*

Your Committee on Enrollment, have examined and found correctly enrolled, an Act concerning the County Judges of the Counties of Tehama and Santa Cruz.

Also, an Act supplemental to an Act to authorize the funding of the floating debt of the City of San Francisco, and to provide for the payment of the same.

Also, an Act to authorize Jackson Prouty to construct a wagon road from Mokelumne Hill to a point on the Stockton road, at or near the Golden Gate Rancho, in the County of Calaveras.

Also, an Act amendatory of and supplementary to an Act for the protection of Game.

Also, an Act concerning Taxes for the Support of Common Schools in the city and county of San Francisco.

D. CRANDALL, Chairman.

Mr. Ferguson of Sacramento, by leave, presented the petitions of the Sheriffs of Tuolumne and Mariposa Counties, praying for relief, which was referred to the Committee on Claims.

GENERAL FILE RESUMED.

Assembly Bill No. 220, an Act to regulate Fees in Office in the county of Yuba, was taken up.

Mr. Merritt moved to read the bill by title.

The Chair ruled the motion out of order.

Mr. Merritt appealed from the decision of the Chair.

The Chair withdrew his decision and ruled the motion of Mr. Merritt in order.

Whereupon Mr. McCallum appealed after much debate.

Mr. Norman moved the previous question, which was sustained.

Question, "Shall the main question be now put?" which was put and carried

The main question, "Shall the decision of the Chair stand as the judgment of the Senate?"

The ayes and noes were demanded by Messrs. McCallum, Carpenter and Mandeville, and taken with following result:

AYES.

Messrs. Ashley, Bell, Burnett, Bynum, Cosby, De La Guerra, Goodwin, Johnson of Sacramento, McCallum, McGee, Melony, Merritt, Mesick, Taliaferro, Waite and Westmoreland—16.

NOES.

Messrs. Carpenter, Chase, Ferguson of Sierra, Fiske, Mandeville, Norman, Soule, Sullivan and Woodworth—9.

Mr. Crandall and Johnson of El Dorado, declined voting.

So the decision of the Chair was sustained.

Mr. McCallum moved to reconsider the vote by which the decision of the Chair was sustained.

Mr. Ashley rose to a point of order: "The previous question having been sustained, the motion to reconsider was not in order."

The Chair ruled the point of order well taken.

Mr. McCallum appealed from the decision of the Chair, upon which the ayes and noes were demanded by Messrs. McCallum, Carpenter and Mandeville, and taken with the following result:



## AYES.

Messrs. Ashley, Bell, Burnett, Bynum, Cosby, De La Guerra, Ferguson of Sacramento, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McGee, Melony, Merritt, Mesick, Shaw, Soule, Sullivan, Taliaferro, Waite, Westmoreland and Woodworth—22.

## NOES.

Messrs. Carpenter, Chase and McCallum—3.

Messrs. Ferguson of Sierra and Norman declined voting.

So the ruling of the Chair was sustained.

The question recurring on the motion of Mr. Merritt to read the bill by title, the ayes and noes were demanded by Messrs. McCallum, Carpenter and Mandeville, and taken with the following result :

## AYES.

Messrs. Ashley, Bell, Burnett, Bynum, Chase, Cosby, De La Guerra, Dosh, Ferguson of Sacramento, Goodwin, Johnson of Sacramento, Melony, Merritt, Mesick, Taliaferro, Waite and Westmoreland—17.

## NOES.

Messrs. Carpenter, Ferguson of Sierra, Johnson of El Dorado, Mandeville, McCallum, Norman, Soule, Sullivan and Woodworth—9.

The Chair announced the motion to read the bill by title as having been carried ; from which decision Mr. McCallum appealed, upon the ground that the motion involved a suspension of the rules, and therefore required a two-third vote.

Mr. Merritt rose to a point of order—That the Senate being under the operation of the previous question, an appeal could not be entertained.

The Chair ruled the point of order well taken.

The bill was then read a third time by title and passed.

Mr. Burnett gave notice that on to-morrow he would move a reconsideration of the vote by which the Senate rejected additional rule No. 45.

Senate bill No. 183, an Act to prohibit Gaming, was taken up. Amendments of the Judiciary Committee, reported April 11th, were adopted. On motion, the rules were suspended, the bill considered engrossed, and read a third time.

Mr. Ferguson, of Sacramento, moved the indefinite postponement of the bill.

Mr. McCallum moved to reconsider the vote by which the bill was ordered engrossed and read a third time.

Mr. Merritt moved the previous question.

Sustained.

Question—"Shall the main question be now put?" was put and carried.

The main question, being the motion to reconsider the vote by which the bill was ordered engrossed and read a third time, was put and lost.

Question recurring on the motion to indefinitely postpone the bill, the ayes and noes were demanded by Messrs. Shaw, De La Guerra, and Ferguson of Sacramento, and taken with the following result:

AYES.

Messrs. Bynum, Ferguson of Sacramento, Johnson of Sacramento and Westmoreland—4.

NOES.

Messrs. Ashley, Bell, Burnett, Carpenter, De La Guerra, Dosh, Fiske, Goodwin, Johnson of El Dorado, McCallum, McGee, Melony, Merritt, Mesick, Norman, Shaw, Soule, Sullivan, Taliaferro and Waite—20.

Mr. Crandall declined voting.

So the motion to indefinitely postpone was lost.

Question then recurring on the final passage of the bill was put and the bill passed.

Mr. Mesick moved to reconsider the vote by which the bill passed.

Mr. Merritt moved to indefinitely postpone the motion to reconsider.

Carried.

Senate Bill No. 185, an Act supplementary to and explanatory of an Act entitled an Act to further extend the Act concerning Corporations, (passed April 22d, 1850, passed February 23d, 1857,) was read a third time.

Mr. Melony moved to indefinitely postpone the bill, upon which the ayes and noes were demanded by Messrs. Melony, Soule and De La Guerra, and taken with the following result:

AYES.

Messrs. De La Guerra, Ferguson of Sierra, Fiske, Johnson of Sacramento, Johnson of El Dorado, McGee, Melony, Merritt, Norman, Taliaferro and Woodworth—11.

NOES.

Messrs. Ashley, Bell, Carpenter, Dosh, Ferguson of Sacramento, Goodwin, Mesick, Shaw, Soule, Sullivan, Waite and Westmoreland—12.

Mr. Crandall declined voting.

So the Senate refused to indefinitely postpone.

Mr. McGee moved to lay the bill on the table, which was carried.

Assembly Bill No. 327, an Act to authorize Rafael Gomez to receive and enjoy certain property, was read a third time.

The question being on the final passage of the bill, the ayes and noes were demanded by Messrs. McCallum, Norman and Fiske, and taken with the following result:

AYES.

Messrs. Ashley, Bell, Crandall, De La Guerra, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Goodwin, Johnson of El Dorado, McGee, Melony, Mesick, Shaw, Sullivan, Taliaferro, Waite, Westmoreland and Woodworth—18.

NOES.

Messrs. Carpenter, Fiske, McCallum, Merritt and Norman—5.

Mr. Soule declined voting.

So the bill passed.

Assembly Bill No. 364, an Act to authorize Thos. O. Larkin to sell certain Lands in Colusi County belonging to his infant children, was read a third time and passed.

Assembly Bill No. 367, an Act to change the name of Nathan Prickett to that of Nathan Prickett Rice, with recommendation to the Judiciary Committee to indefinitely postpone the bill, was taken up.

Mr. Melony moved to strike out "Prickett" from the bill, which was lost.

Mr. Melony moved to strike out so that the name would read Nathan P. Rice, which was lost.

The question recurring on the recommendation of the Committee to indefinitely postpone, was put and lost. The bill was then read a third time, and passed.

Assembly bill No. 298, an Act to repeal an Act entitled an Act concerning County Judges, (passed April 4, 1854,) was, on motion, indefinitely postponed.

Assembly bill No. 165, an Act to amend an Act entitled an Act to provide for the appointment and prescribe the duties of Guardians, passed April 19, 1850, was indefinitely postponed.

Mr. Shaw rose to a privileged question: as to what had been said by him about Don Manuel Dominguez, in Senate debate on the bill allowing other than white persons to be witnesses; and after reading a letter from Mr. Brent of the Assembly, stating that, in his opinion, M. Dominguez could not be excluded from being a witness, Mr. Shaw stated that his information concerning Don Manuel, who is one of the signers of the Constitution of this State, was derived from Don Pablo de la Guerra, Senator from Santa Barbara, and that all which was said by himself and Don Pablo, was complimentary to Don Manuel Dominguez.

GENERAL FILE RESUMED.

Senate bill No. 171, an Act amendatory of and supplementary to an Act in relation to Personal Mortgages in certain Cases, was, on motion of Mr. Carpenter, made the special order of the day for Saturday at 10½ o'clock.

Senate bill No. 182, an Act to reduce and establish the Per Diem of Members, Officers, and Attaches of the Legislature, and the Salaries of Officers, being substitute for Assembly bill 98, with amendments adopted in Committee of the Whole on 31st March, was taken up.

Mr. Ferguson moved to adjourn.

Lost.

On motion, the amendments adopted in Committee of the Whole were concurred in.

Mr. Bell moved to indefinitely postpone the bill; upon which the ayes and noes were demanded by Messrs. McCallum, Soule, and Waite.

Mr. Norman moved a call of the Senate.

Upon which the ayes and noes were demanded by Messrs. Shaw, Norman, and Soule, and taken with the following result:

#### AYES.

Messrs. Carpenter, De La Guerra, Johnson of El Dorado, McCallum, Melony, Norman, Shaw, Soule, Sullivan, Waite, and Westmoreland—11.

#### NOES.

Messrs. Ashley, Bell, Chase, Cosby, Crandall, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Johnson of Sacramento, Mandeville, McGee, Merritt, Mesick, Taliaferro, and Woodworth—15.

So the motion for a call of the Senate was not sustained.

The reading of the bill being called for, and objections being made, the question, "Shall the bill be read?" was put and lost.

Question recurring on the motion to indefinitely postpone the bill, after much debate—

Mr. Bell moved the previous question.

Sustained.

Question, "Shall the main question be now put!" was put and carried.

Main question being on the motion to indefinitely postpone the bill, the ayes and noes were taken with the following result:

#### AYES.

Messrs. Bell, Chase, Cosby, Crandall, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Goodwin, Mandeville, McGee, Merritt, Mesick and Taliaferro—13.

#### NOES.

Messrs. Ashley, Burnett, Carpenter, De la Guerra, Johnson of El Dorado, McCallum, Melony, Norman, Shaw, Soule, Sullivan, Waite and Woodworth—13.  
Being a tie, the motion was lost.



The question being on ordering the bill engrossed and read a third time, the ayes and noes were demanded by Messrs. McCallum, Soule and Mandeville, and taken with the following result:

AYES.

Messrs. Ashley, Burnett, Carpenter, De la Guerra, Johnson of El Dorado, Melony, Norman, Shaw, Soule, Sullivan, Waite and Woodworth—12.

NOES.

Messrs. Bell, Chase, Cosby, Crandall, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Johnson of Sacramento, Mandeville, McCallum, McGee, Merritt, Mesick and Taliaferro—14.

So the Senate refused to order the bill engrossed.

Mr. McCallum gave notice that on to-morrow he would move a reconsideration of the vote by which the Senate refused to engross the bill.

Mr. Bell moved to reconsider the vote now.

Mr. Mandeville moved to indefinitely postpone the motion to reconsider.

Mr. Soule moved to adjourn.

Lost.

After debate, on motion of Mr. Bell, the Senate adjourned.

Approved April 17, 1857.

S. H. DOSH,  
President Senate *pro tem.*

Attest:

GEO. S. EVANS, Secretary Senate.

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## IN SENATE.

FRIDAY, April 17th, 1857.

Senate met pursuant to adjournment.

President *pro tem.* in the chair.

Roll called.

Journals of yesterday read and approved.

Mr. Woodworth, by leave, introduced the following concurrent resolution:

*Resolved*, By the Senate, the Assembly concurring, that his Excellency, the Governor, be requested to return Senate enrolled bill, an Act amendatory of and supplementary to an Act to repeal the several charters of the City of San Francisco, to establish the boundaries of the City and County of San Francisco,

and to consolidate the government thereof, approved April 19th, 1856, that the same may be corrected, which was read and adopted.

Mr. Crandall, Chairman of the Committee on Enrollment, made the following report :

*Mr. President :*

Your Committee on Enrollment have presented to the Governor for his approval, an Act concerning the County Judges of the Counties of Tehama and Santa Cruz.

Also, an Act supplemental to an Act to authorize the funding of the floating debt of the City of San Francisco, and to provide for the payment of the same.

Also, an Act to authorize Jackson Prouty to construct a wagon road from Mokelumne Hill to a point on the Stockton Road, at or near the Golden Gate Ranch, in the County of Calaveras.

Also, an Act amendatory of and supplementary to an Act for the protection of game.

And, an Act concerning taxes for the support of common schools in the County of San Francisco.

D. CRANDALL,  
Chairman.

Mr. Taliaferro, Chairman of the Committee on State Hospitals, made the following report :

*Mr. President :*

Your Committee on Hospitals, to whom was referred Assembly Bill No. 57, supplementary to an Act concerning the indigent sick of the counties of this State, have had the same under consideration and beg leave to submit, that whilst they are in favor of the general provisions of this bill with some few restrictions, they think sections six and seven would deprive it of all its virtues. These two sections exempt certain counties. If this bill cannot become a general law it is best to have none at all on the subject, but let those counties that have had the maintenance of the indigent sick of other than their own counties, bring their claims against the State. They would therefore respectfully recommend its indefinite postponement.

A. W. TALIAFERRO.

Report accepted and with bill placed on the calendar.

The following message was received from the Assembly :

*Mr. President :*

The Assembly have this day appointed Messrs. Swezy, Hume and Burch, Committee of Free Conference on the disagreeing vote of the two houses upon Senate Bill No. 143, an Act to amend an Act entitled an Act concerning Sheriffs, passed April 29, 1851.

And, on yesterday, concurred in Senate amendments to Assembly bill No. 252, an Act restricting the herding of sheep to certain pastures in the County of Sonoma.

J. W. SCOBEY,  
Assistant Clerk.

April 16th, 1857.

Also, the following :

*Mr. President :*

I am directed to inform the Senate that the Assembly have this day passed Senate bill No. 203, an Act supplementary to and explanatory of an Act entitled an Act amendatory of and supplementary to an Act entitled an Act to create the office of State Printer, and define the duties and compensation thereof, and to provide for the time and manner of election, passed May 1st, 1854, approved April, 1857.

April 16th, 1857.

J. W. SCOBEEY,  
Assistant Clerk.

Also, the following :

*Mr. President :*

I am directed to inform the Senate that the Assembly on yesterday passed Senate bill No. 200, an Act to authorize the Main street Wharf Company to build a wharf in the County of Solano.

Also, concurred in Senate amendments, with the exception of the two last, from which they respectfully ask the Senate to recede.

Also, passed Assembly bill No. 236, an Act to regulate Fees in Office in certain counties in this State.

April 17th, 1857.

W. CAMPBELL,  
Clerk of Assembly.

Assembly bill No. 236 was taken up, and, on motion of Mr. Melony, the Senate refused to recede from its amendments.

M. Melony then moved to appoint a Committee of Free Conference, to meet a like Committee on the part of the Assembly, relative to Assembly disagreement vote upon the bill.

Adopted.

The Chair appointed as such Committee, Messrs. Melony, Merritt and Cosby.

On motion of M. Johnson, of El Dorado, Assembly bill No. 358, an Act to amend an Act entitled an Act to incorporate the town of Placerville, passed May 13th, 1854, was taken up, read a third time and passed.

M. McCallum, in accordance with notice previously given, moved to reconsider the vote by which the Senate yesterday refused to order engrossed Senate bill No. 182, an Act to reduce and establish the per diem of officers and attaches of the Legislature, and the salaries of officers.

M. Mandeville moved the indefinite postponement of the motion to reconsider, upon which the ayes and noes were demanded by Messrs. Melony, Soule and Carpenter, and the Secretary proceeded to call the roll.

M. McCallum moved a call of the Senate.

Mr. Maudeville rose to a point of order—That it was not in order to move a call of the Senate after the commencement of the roll call.

The Chair ruled the point of order not well taken.

Mr. Bell appealed from the decision of the Chair.

Mr. Norman moved to suspend the rules, in order that he might introduce an additional Standing Rule of the Senate.

Lost.

The question, being "Shall the decision of the Chair stand as the judgment of the Senate?" was put and lost.

The question recurring on the motion of Mr. Mandeville, to indefinitely postpone the motion to reconsider, the roll was called with the following result—Ayes, 14; noes, 15.

So the Senate refused to indefinitely postpone the motion to reconsider.

Mr. Mandeville moved to make the bill the special order for the 26th instant, at 12 o'clock.

Mr. Ashley moved to lay this motion on the table.

Mr. McCallum moved the previous question.

Not sustained.

The question being on the motion to lay the motion to make the bill the special order, on the table, was put and lost.

The question recurring on the motion to make the bill the special order of the day for the 26th inst., the ayes and noes were demanded by Messrs. McCallum, Carpenter and Melony, and taken with the following result:

#### AYES.

Messrs. Bell, Bynum, Chase, Cosby, Crandall, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Johnson of Sacramento, Mandeville, McGee, Merritt, Mesick and Taliaferro—14.

#### NOES.

Messrs. Ashley, Burnett, Carpenter, De la Guerra, Fiske, Goodwin, Johnson of El Dorado, McCallum, Melony, Norman, Shaw, Soule, Sullivan, Waite and Woodworth—15.

So the motion to make the bill the special order for a day certain, was lost.

Mr. Ashley moved the previous question.

Sustained.

Question, "Shall the main question be now put!" was put and carried.

The main question being the motion to reconsider the vote by which the Senate refused to order the bill engrossed, the ayes and noes were demanded by Messrs. McCallum, Mesick and Carpenter, and taken with the following result:



## AYES.

Messrs. Ashley, Burnett, Carpenter, De la Guerra, Fiske, Goodwin, Johnson of El Dorado, McCallum, Melony, Norman, Shaw, Soule, Sullivan, Waite and Woodworth—15.

## NOES.

Messrs. Bell, Bynum, Chase, Cosby, Crandall, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Johnson of Sacramento, Mandeville, McGee, Merritt, Mesick and Taliaferro—14.

So the motion to reconsider was carried.

The question recurring, "Shall the bill be ordered engrossed and read a third time?" the ayes and noes were demanded by Messrs. Mandeville, Bell and Mesick, and taken with the following result:

## AYES.

Messrs. Ashley, Burnett, Carpenter, De la Guerra, Fiske, Goodwin, Johnson of El Dorado, Melony, Norman, Shaw, Soule, Sullivan, Waite and Woodworth—15.

## NOES.

Messrs. Bell, Bynum, Chase, Cosby, Crandall, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Johnson of Sacramento, Mandeville, McCallum, McGee, Merritt, Mesick, Taliaferro and Westmoreland—16.

So the Senate refused to order the bill engrossed and read a third time.

Mr. McCallum gave notice that on tomorrow he would move to reconsider the vote by which the Senate refused to order the bill engrossed.

The Chair ruled the motion out of order.

Mr. McCallum appealed from the decision of the Chair, upon which the ayes and noes were demanded by Messrs. McCallum, Carpenter and Goodwin, and taken with the following result :

## AYES.

Messrs. Ashley, Bell, Burnett, Bynum, Carpenter, Chase, Cosby, Crandall, De la Guerra, Ferguson of Sacramento, Ferguson of Sierra, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McGee, Melony, Merritt, Mesick, Norman, Taliaferro, Waite and Wilson—22.

## NOES.

Messrs. Fiske, Goodwin, McCallum, Soule, Sullivan and Woodworth—6.  
Mr. Shaw declined voting.

So the decision of the Chair was sustained.

Mr. Merritt offered the following resolution :

*Resolved*, By the Senate, the Assembly concurring, that our Senators in Con-

gress are instructed and our Representatives are requested, to urge upon Congress the necessity for the immediate establishment of a new and separate steam boat inspection district for the State of California, and the Territories of Oregon and Washington, with an inspector, to reside at the City of San Francisco which was adopted.

Mr. Woodworth introduced a bill entitled an Act to amend an Act entitled an Act to fix the terms of the District Court of the County of San Mateo, which was read first and second times and placed on the calendar.

Mr. Soule introduced a bill entitled an Act to prescribe the terms for electing the Supervisors, School Directors and President of the Board of Supervisors of the City and County of San Francisco, and to fix their terms of office, which was read first and second time and placed on the calendar.

#### GENERAL FILE.

Assembly Bill No. 350, an Act to provide for the erection of a court house and jail in the County of San Luis Obispo, was read a third time and passed.

Assembly Bill No. 320, an Act concerning certain records in the County of San Joaquin, was read a third time and passed.

Assembly Bill No. 378, an Act to provide for fixing the commencement of the Terms of Office for the county of Yuba, was read a third time and passed.

Assembly Bill No. 377, an Act to amend an Act entitled an Act to authorize the county of Sacramento to fund the outstanding Warrants drawn against the Court House and Jail Fund of the county, approved March 5th, 1855, was read a third time and passed.

Senate Bill No. 177, an Act concerning Roads and Highways, was, on motion, placed at foot of the calendar.

Assembly Bill No. 318, an Act to fund the Debt of the county of Siskiyou was, on motion, placed at foot of the calendar.

Mr. McCallum offered the following resolution:

*Resolved*, That the Committee on Enrolled Bills be authorized to prefix the enacting clause to an act entitled an Act relating to and fixing the Residence of the County Judge of the county of El Dorado.

Adopted.

The following messages were received from His Excellency the Governor:

EXECUTIVE DEPARTMENT, }  
Sacramento, April 16, 1857. }

*To the Senate of California:*

I have this day approved the following acts:

An Act concerning Taxes for the Support of Common Schools in the city and county of San Francisco.

Also, an Act amendatory of and supplementary to an Act for the protection Game, passed May 13th, 1854.

Also, an Act supplemental to an Act to authorize the funding of the Floating Port of the city of San Francisco, and to provide for the payment of the same, passed May, 1st 1851:

Also, an Act concerning the County Judges of the counties of Tehama and Santa Cruz.

J. NEELY JOHNSON.

Also, the following:

EXECUTIVE DEPARTMENT,  
Sacramento, April 17, 1857. }

*to the Senate of California:*

An Act entitled an Act to grant the right to construct a Turnpike Road between the town of Columbia and the city of Sonora, in the county of Tuolumne, herewith returned without approval.

As indicated by its title, this Act proposes certain privileges and rights to the parties therein named by special enactment; whilst reference being had to the law of May 12th, 1853, (contained in the Codified Statutes, page 291,) it will be perceived that ample provision has been made for the formation of companies for the construction of plank or turnpike roads; and under the operations of that law, many hundred miles of road have been constructed in this State, a portion of which has involved a large expenditure of capital, and in no instance, I believe, has a road in this State been so constructed by the aid of a special act; thus fully demonstrating the efficiency of the general law regulating such corporations and privileges, and of a necessary consequence, affording the most satisfactory evidence that special legislation for such purposes is not requisite. On the 27th day of the last month, whilst returning an Act originating in your honorable body, authorizing the establishment of a ferry by special act, I took occasion to present the distinction I had, in the discharge of Executive duty, served in reference to legislation of this character. As these views are not applicable to the subject under consideration, I quote from that message:

"The distinction which I have drawn during my Executive term, in relation to matters of this nature, embracing ferries, bridges and roads, is simply this: When the uniform policy of the State in the establishment of ferries and bridges is conferred upon the local authorities the exercise of this power, there let it remain."

"The same may be said of roads and highways, which involve private rights and the expenditure of private capital."

"In all such instances, when interrogated, I have refused to give them my approval."

There are, however, instances wherein those general laws deny the exercise of this power by the local authorities, doubtless for wise motives, and the sanction of the Legislature becomes necessary. "Of this character may be denominated the erection of bridges spanning the navigable waters of the State." "The objection which they would present to navigation and commerce is most usually diffused in its influence, and widely spread in its effects, as to render it no matter of mere local consideration, but in which the people of other portions of the State have the right through their chosen representatives to inquire and pass judgment upon." \* \* \* \* \*

As then stated, "the present case is not one of that nature" requiring special legislation, but is amply provided for by the existing general law. It can therefore but serve to absorb the time of the Legislature, and encumber the statutes with unnecessary and unconstitutional legislation.

I would furthermore call attention to a provision of this bill, which, in my es-

timation, confers on the part of the State an authority and privilege not possessed—that of “granting the right of way along the line of the proposed road.” I am not yet prepared to give sanction to the proposition that the lands over which this road is proposed to be constructed, belong absolutely to the State; and unless this be so, surely the State authority cannot confer the right of way for the benefit of a private corporation. The mode and manner to be observed in the procurement of the right of way for purposes of this kind, is clearly defined in the general law, and fully obviates any difficulty arising from that cause.

It may in some particulars be necessary, for the more ample protection of capital invested in such works, that the general law should be amended. If it should be so discovered, then I would suggest, as I have before urged upon you, *amend the general law*; by which all persons may alike be governed: and give no further heed to the repeated applications which are made for special privileges of this nature.

J. NEELY JOHNSON.

On motion of Mr. Coffroth, the veto message of the Governor was made the special order of the day for Monday, the 20th inst., at twelve o'clock.

Senate bill No. 198, an Act to authorize the sale of certain real estate by Guardians, was considered in Committee of the Whole.

After some time spent in so considering the bill, the Committee rose, reported progress, and asked leave to sit again.

In Senate—On motion of Mr. Burnett, the Senate took a recess for ten minutes, to prepare for the organization of the Senate as a High Court of Impeachment.

The Senate reassembled at the time appointed.

The President *pro tem.*, presiding.

Roll called. Absent—Messrs. Walkup, Wilson and Melony; the two first upon leave.

The President announced the suspension of all executive and legislative business, and that the Senate was organized as a High Court of Impeachment, for the trial of Geo. W. Whitman, Controller of State. Whereupon the Secretary announced to the Assembly the organization of the Court, and the Sergeant-at-Arms made proclamation of the fact at the door of the Senate Chamber.

### HIGH COURT OF IMPEACHMENT.

The Managers on the part of the Assembly, and counsel of the defendant being present, and there being no objection, Gen. James M. Estell was called as a witness on the part of the defence, duly sworn by the Secretary of the Senate, examined and cross-examined.

His Excellency, Governor Johnson, was then recalled on the part of the State as a rebutting witness, examined and cross-examined.

The evidence on the part of the State and of the defense being finally closed, Mr. Hall, of the managers, announced that they were ready to proceed with the argument of the case, and stated the order in which counsel would proceed.

Mr. Swezy asked until to-morrow to conclude his examination of the volumi-



ous testimony; which not being granted by the Court, he proceeded to open the argument on the part of the State.

After arguing the case at some length, the managers asked an adjournment, until 11 o'clock to-morrow, that a further reading of the testimony might be made, and that Mr. Swezy might prepare to conclude his argument.

Objections being made, the roll was called and the Court adjourned by the following vote:

AYES.

Messrs. Ashley, Bynum, Carpenter, Johnson of Sacramento, Mandeville, McCallum, Mesick, Shaw, Soule and Westmoreland—10.

NOES.

Messrs. Bell, Coffroth, Dosh, Ferguson of Sierra, Fiske, Goodwin, Johnson of Dorado, Merritt and Norman—9.

### IN SENATE.

The following message was received from the Governor:

EXECUTIVE DEPARTMENT,  
Sacramento, April 16, 1857. }

*To the Senate of California :*

In conformity with the concurrent resolution of the Senate, I herewith return Senate Enrolled Bill, an Act amendatory of, and supplementary to, an Act to repeal the several Charters of the City of San Francisco, to establish the boundaries of the City and County of San Francisco, and to consolidate the Government thereof, approved April 19th, 1856.

J. NEELY JOHNSON.

On motion of Mr. Shaw, the bill was placed in the hands of the Enrolling Committee for correction.

GENERAL FILE.

Senate Bill No. 198, an Act to authorize the sale of certain real estate by guardian—under consideration when the Senate adjourned to prepare for the impeachment trial—was again taken up.

Mr. Coffroth moved a call of the Senate.

Lost.

The bill was then considered in Committee of the Whole and reported back without amendments.

In Senate—Mr. Fiske moved to indefinitely postpone the bill, which was lost.

Mr. Johnson of Sacramento, offered the following amendment :

Add to section three the following : "No sale under this act shall be valid until the same shall be approved by the Probate Court of Yolo County, and the

guardian shall be liable on his official bond for the faithful application of all money received from any sale authorized by this act, which was adopted.

Mr. Soule offered the following amendment :

Strike out the words "considering the title," in section second fourth line from the bottom.

Adopted.

The bill was then ordered engrossed and read a third time.

Senate Bill No. 4, an Act for the better protection of mining interests, was taken up, and after much debate, Mr. McCallum moved to make the bill the special order of the day for tomorrow the 17th inst., at 11 o'clock, which was carried.

Mr. Norman made a verbal report on Assembly concurrent resolution instructing the Attorney General to bring suit against certain County Treasurers, recommending a substitute therefor.

On motion, the rules were suspended, substitute considered, adopted and passed:

On motion of Mr. Shaw, the following Assembly message was taken up:

*Mr. President :*

The Assembly have this day amended Senate amendments to Assembly Bill No. 267, an Act to reorganize and establish the County of San Mateo, and concurred in the amendments as amended, and ask the concurrence of the Senate thereto.

J. W. SCOBEEY,  
Assistant Clerk.

April 17th, 1857.

On motion, the amendments of the Assembly were concurred in.

Mr. Westmoreland moved to adjourn, which was lost.

Assembly Bill No. 349, an Act amendatory of an Act to amend an Act entitled an Act amendatory of and supplementary to an Act entitled an Act concerning the Courts of Justice of this State and Judicial Officers, passed April 16th, 1855, was read a third time and passed.

Assembly Bill No. 269, an Act to provide for the payment of volume five of the Reports of the Supreme Court of California, with amendments reported by the Judiciary Committee 13th April; amendments adopted and the bill was read a third time.

Mr. Norman moved to indefinitely postpone the bill.

After much debate, Mr. Coffroth moved the previous question, which was sustained.

Question being, "Shall the main question be now put?" the ayes and noes were demanded by Messrs. McCallum, Shaw and Soule, and taken with the following result:

## AYES.

Messrs. Ashley, Bell, Burnett, Bynum, Chase, Coffroth, Crandall, Dosh, Ferguson of Sierra, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Melony, Merritt, Mesick, Sullivan and Taliaferro—17.

## NOES.

Messrs. Carpenter, McCallum, Norman, Shaw, Soule and Waite—6.

So the main question was ordered to be put.

The main question being on the motion to indefinitely postpone the bill, was put and lost.

Question recurring on the final passage of the bill, the ayes and noes were demanded by Messrs. Soule, McCallum and Mesick, and taken with the following result:

## AYES.

Messrs. Ashley, Bell, Bynum, Chase, Coffroth, Crandall, Dosh, Ferguson of Sierra, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Melony, Merritt, Mesick, Sullivan and Taliaferro—16.

## NOES.

Messrs. Burnett, Carpenter, McCallum, Norman, Shaw, Soule and Waite—7.

So the bill passed.

Mr. Goodwin moved to adjourn.

Lost.

Mr. Coffroth was granted leave to record his vote in the affirmative on the final passage of the bill entitled an Act to provide for the payment of certain equitable claims against the State of California and to contract a funded debt for that purpose.

On motion of Mr. Ashley, the Senate adjourned.

Approved April 18th, 1857.

S. H. DOSH,  
President Senate, *pro tem.*

Attest:

GEO. S. EVANS, Secretary Senate.

## IN SENATE.

SATURDAY, April 18th, 1857.

Senate met pursuant to adjournment.  
 President *pro tem.* in the chair.  
 Roll called.  
 Journals of yesterday read and approved.

Mr. McGee made the following report:

*Mr. President :*

Your Committee to whom was referred Senate Bill providing for the construction of a wagon road through Butte and Plumas Counties, report a substitute for the same and recommend its passage.

J. B. MCGEE, Committee.

Report accepted, and, on motion, rules suspended and substitute considered.

Mr. McCallum called for the reading of the original bill.

The Secretary proceeded to read.

Mr. McGee moved to dispense with further reading of the bill.

Carried.

The substitute was then adopted, read first and second times, and placed on calendar.

The hour having arrived for the consideration of the special order of the day, Senate Bill No. 171, an Act amendatory of, and supplementary to, an Act in relation to personal mortgages in certain cases, was taken up, considered in Committee of the Whole, and reported back, with amendments.

In Senate—Amendments concurred in.

Mr. Mesick offered the following amendment:

In line 12, of Section 1, strike out all between words "make" and "that," and insert "affidavit." Strike out all of the 13th line after word "creditor," and all following, and insert, "which affidavit shall be attached to such mortgage."

Adopted.

Mr. Mesick offered the following amendment:

After the word "Act," in 1st line, 2d section, insert the words "with affidavit attached."

Adopted.



On motion of Mr. Mandeville, the bill was ordered engrossed and read a third time.

The following message was received from the Governor :

EXECUTIVE DEPARTMENT,  
Sacramento, April 18th, 1857. }

*To the Senate of California :*

I have this day approved an Act supplementary to an Act to amend an Act relating to corporations, passed May 18th, 1853.

J. NEELY JOHNSON.

On motion, the Senate took a recess of five minutes, in order to prepare for the organization as a High Court of Impeachment.

The Senate reassembled at the time appointed.

The President *pro tem* presiding.

Roll called.

Absent, Messrs. Wilson, Walkup, Ferguson of Sacramento, and Melony.  
The two first upon leave.

Mr. Mesick made the following report :

*Mr. President :*

The Select Committee to which was referred Assembly Bill No. 142, having had it under consideration report the same back with amendments, and recommend its passage as amended.

R. S. MESICK,  
Of Committee

In Senate—Proposed amendments of Special Committee:

Amend section one by striking out all of the section following the word "of" in the eighth line, and substituting the following: "any railroad company for the purpose of constructing any railroad by which any railroad connection shall be formed between the City of Marysville and either the City of Benicia or any point on the Sacramento River at or near, either Knight's Ferry or Sacramento City."

Amend section three by striking out all between the words "of" in the eighth line and "stock" in the thirteenth line, and substituting the following: "any railroad company for the purpose mentioned in section one of this act."

Amend section four by striking out all of the section following the word "committee" in the fifth line and substituting the following: "for the stock of what company such subscription shall be made."

Amend section six by striking out all between the words "payable" in line twenty-second, and "shall" in line twenty-seven, and substituting the following: "semi-annually on the first of January and July, so long as such bonds are outstanding and unpaid and."

Also, by striking out from thirty-first line all after word "by" and all of the thirty-second, thirty third and thirty-fourth lines and substituting the following: "the said Chairman of the Board of Supervisors, the County Auditor and County Treasurer as such officers, and as ex officio Loan Commissioner."

Amend section eight by striking out from line nineteen the words "State and."

Amend section ten by striking out from line two the word "certain."

Amend section eleven by striking out all of line nine except the last word, and substituting the following: "the expiration of the time for such publication."

Amend section sixteen by inserting between words "county" and "of" in line nine, the following: "at any county or general election."

Amend section eighteen by inserting in line one before the first word, the word "neither," and striking out from line second the word "not"

Report accepted and with bill and amendments placed on calendar.

Mr. Crandall, Chairman of the Committee on Enrollment, made the following report:

*Mr. President:*

Your Committee on Enrollment have examined and found correctly enrolled an Act to authorize the Main street Wharf Company to build a Wharf in the County of Solano.

Also, have presented to the Governor, an Act to amend an Act entitled an Act to repeal the various Charters of the City of San Francisco, to define the boundaries of the City and County of San Francisco, and to consolidate the government thereof.

Also, an Act relating to and fixing the residence of the County Judge of the County of El Dorado.

D. CRANDALL,  
Chairman.

Mr. Ashley, Chairman of the Judiciary Committee, made the following report:

*Mr. President:*

The Committee on Judiciary have examined and recommend the passage of Senate bill No. 226, an Act to authorize Priscilla H. Denham to sell certain real estate.

D. R. ASHLEY,  
Chairman.

Report accepted and bill placed on calendar.

On motion of Mr. McCallum, Senate bill No. 4, an Act for the better Protection of Mining Interests, was taken up, and, while under discussion,

Mr. McCallum rose to a point of order—That the Senator speaking had already once spoken upon the subject.

The Chair ruled the point of order well taken.

On motion of Mr. McCallum, the bill was then made the special order for this day, immediately after the adjournment of the Court of Impeachment.

The President then announced that all legislative and executive business was suspended, and the Senate organized as a High Court of Impeachment, for the trial of Geo. W. Whitman, Controller of State. Whereupon the Secretary of the Senate notified the Assembly of the organization of the Court, and the Sergeant-at-Arms made proclamation of the same at the door of the Senate Chamber.

## HIGH COURT OF IMPEACHMENT.

The Managers on the part of the Assembly, and counsel for the defendant being present, Mr. Swezy, of the Managers, resumed and concluded his argument, and Mr. Perley, of counsel for the defendant, opened for the defense, and occupied the attention of the Court for several hours, when, on motion of Mr. Coffroth, the Court adjourned until Monday next, the 20th inst., at 11 o'clock.

## IN SENATE.

The special order to be taken up on the adjournment of the Court, Senate Bill No. 4, an Act for the better protection of Mining Interests, was again considered.

Mr. Merritt moved to indefinitely postpone the bill, upon which the ayes and noes were demanded by Messrs. McCallum, Merritt and McGee, and taken with the following result:

## AYES.

Messrs. Bell, Barnett, Bynum, Dosh, Ferguson of Sierra, Johnson of Sacramento, McGee, Melony, Merritt, Mesick, Norman and Sullivan—12.

## NOES.

Messrs. Ashley, Carpenter, Crandall, De La Guerra, Fiske, Goodwin, Johnson of El Dorado, McCallum, Shaw, Soule, Taliaferro and Waite.

Mr. Coffroth declined voting.

So the Senate refused to indefinitely postpone the bill.

The bill was then ordered engrossed and read a third time.

Mr. Coffroth, Chairman of the Committee on Public Lands, made the following report:

*Mr. President:*

The Committee on Public Lands, to whom was referred an Act to provide for the construction of the State Capitol in the city of Sacramento, respectfully beg leave to report:

The bill under consideration proposes to give to Joseph Nougues the contract to build a State Capitol under the plans and specifications adopted by the old Board of Commissioners, (Messrs. Douglass, Whitman and Griswold,) and drawn by Reuben Clark, architect. The general plan and fac simile of the proposed building is now hanging in the Senate Chamber. In length, exclusive of porticos, it is 212 feet; and in width, exclusive of porticos, 131 feet. The building will have the capacity to give ample accommodation to all of the departments of Government—Legislative, Judicial and Executive, besides spacious apartments for committees of the Senate and Assembly. That such a building is necessary is acknowledged by all, and your committee cannot too warmly recommend the subject of building a State Capitol to the consideration of the Senate. Last year the State expended very nearly the sum of \$28,000 for rents of public buildings and offices, and for the present year your committee ascertain from official authority that the following sums are estimated as charges for rent alone:

Rent of State House.....	\$12,000
Superintendent of Public Instruction.....	600
Surveyor General.....	1,200
Attorney General.....	600
Library.....	1,800
Supreme Court.....	5,000
Committee Rooms.....	600
Adjutant General.....	600
Governor's office.....	600

\$23,000

If a Capitol should be built this large sum would be saved to the State, and the stigma now resting upon us, that we are forced by lease to procure shelter for the different departments of government, will be removed. The question arises, however, is the State financially able to meet the expenditure involved in building a Capitol: we do not believe that by appropriation she is able, but the bill now under consideration does not appropriate any money for the building. It proposes that 300,000 acres of the swamp and overflowed lands be set apart for that purpose; and from what your committee can ascertain, the contractor is willing to accept these lands as a consideration for his labor. Thus it will be seen that with the exception of the salaries of the Commissioners and Superintendents, the entire building may be speedily completed without a direct appropriation from the Treasury.

The policy of thus appropriating the public lands, however, is a question for the Senate to decide: but your committee would suggest, that as the State is bound, under the law of Congress granting the swamp lands, to reclaim them, the contractor thus accepting the domain, would relieve the Commonwealth from their reclamation; and again, it is fair to presume that the lands thus conveyed to Nougues would immediately be brought into cultivation, and by taxation would be a fruitful source of assistance in meeting the burdens of government. Your committee, therefore, recommend the bill to the immediate consideration of the Senate.

**JAS. W. COFFROTH, Chairman.**

Report accepted.

Mr. Coffroth moved to make the bill the special order of the day for Tuesday next, the 21st inst.; which was lost.

The bill with report was then placed on the calendar.

On motion of Mr. Merritt, Assembly Bill No. 166, an Act to provide revenue for the support of the Government of this State, from a tax to be levied and collected from foreign and inland bills and other matters, was taken from the unfinished business and placed on the calendar.

Mr. Coffroth made a verbal report upon Assembly Bill No. 263, an Act to amend an Act entitled an Act to provide for the incorporation of Railroad Companies, passed April 22d, 1853, and amended May 15th, 1854, and amended April 10th, 1855,—and recommend the passage of the bill.

Report received and bill placed on calendar.

On motion of Mr. Soule, all unfinished business was ordered to be placed on the calendar.



On motion of Mr. McGee, Senate Bill No. 232, an Act to provide for the construction of a wagon road, from Oroville, Butte County, to, and intersecting at the most practicable point, the line of the supposed National Wagon Road, that has its terminus at or near Honey Lake, Plumas County, was taken up and considered.

Mr. McGee offered the following amendment:

Insert in 2d line, 1st section, the names "William Buckholder and R. C. Chambers"

Adopted.

On motion, the bill was ordered engrossed and read a third time.

Mr. Crandall, Chairman of the Committee on Enrollment, made the following report:

*Mr. President :*

Your Committee on Enrollment have presented to the Governor, an Act to authorize the Main street Wharf Company to build a Wharf in the County of Solano.

D. CRANDALL.

Mr. Melony, Chairman of the Committee on Engrossment, made the following report :

*Mr. President :*

Your Committee on Engrossed Bills have examined and find correctly engrossed, Senate bill No. 198, entitled an Act to authorize the sale of certain real-estate by Guardian.

A. R. MELONY, Chairman.

Mr. Coffroth returned to the Senate the following papers :

Statement of the Controller's Contingent Fund, &c.

Report of Superintendent of Public Instruction.

Contingent Expenses of the office of the Attorney General.

Contingent Fund of the Secretary of State.

Which were received and ordered to be filed with the archives of the Senate.

Mr. Goodwin moved that the Senate adjourn, which was lost.

The following message was received from the Assembly :

*Mr. President :*

I am directed to inform the Senate that the Assembly on yesterday passed Assembly Bill No. 401, an Act for the relief of Wm. G. Still.

Also, that the Assembly on yesterday sustained the veto of the Governor of Assembly Bill No. 254, an Act concerning delinquent Taxes in the counties of this State.

Also, passed Senate Bill No. 206, an Act to authorize Charles J. Collins, his associates and assigns, to build a Wharf at or near Point Culbey, in Solano county.

Also, Assembly Bill No. 387, an Act to provide for the draining and reclamation of certain Swamp and Overflowed Land in the counties of Yolo and Solano.

W. CAMPBELL,  
Clerk of Assembly.

April 18, 1857.

Assembly Bill No. 401 was read first and second times and referred to the Committee on Claims.

Assembly Bill No. 387 was read first and second times and referred to the Committee on Public Lands.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly on to-day adopted Senate concurrent resolution relative to the return by the Governor of a certain enrolled bill.

W. CAMPBELL,  
Clerk of Assembly.

April 17, 1857.

Also, the following:

*Mr. President:*

The Assembly have this day passed, with amendments, Senate Bill No. 85, an Act to authorize the Board of Supervisors of Nevada County to levy a Special Tax for County purposes.

J. W. SCOBEEY,  
Assistant Clerk.

April 17th, 1857.

On motion, the Assembly amendments were concurred in.

Also, the following message:

*Mr. President:*

The Assembly have this day passed Assembly Bill No. 413, an Act to change and fix the Time of holding the Court of Sessions in the county of Sutter.

Also, have concurred in Senate amendments to Assembly concurrent resolution relative to adjournment *sine die*.

J. W. SCOBEEY,  
Assistant Clerk.

April 17, 1857.

Assembly Bill No. 413. was read first and second times and referred to the Delegations from Yuba and Sutter.

Mr. McCallum, by leave, introduced an Act to reduce and fix the per diem of Members, Officers and Employees of the Legislature and other Employees of the Government, which was read first time, objections being made to its second reading.

Mr. Coffroth moved to suspend the rules and place the bill on its second reading.

Mr. Norman moved to adjourn, upon which the ayes and noes were demanded by Messrs. McCallum, Coffroth and Johnson of El Dorado, and taken with the following result:

AYES.

Messrs. Bell, Chase, Crandall, Dosh, Ferguson of Sierra, Johnson of El Dorado, McGee, Melony, Merritt, Mesick, Norman, Sullivan and Waite—13.

NOES.

Messrs. Ashley, Burnett, Bynum, Carpenter, Coffroth, De la Guerra, Fiske, Johnson of Sacramento, McCallum, Shaw, Soule and Taliaferro—12.

So the Senate adjourned.

Approved April 20th, 1857.

R. M. ANDERSON,  
President of the Senate.

Attest:

GEO. S. EVANS, Secretary Senate.

IN SENATE.

MONDAY, April 20, 1857.

Senate met pursuant to adjournment.

The President in the chair.

Roll called.

Journals of Saturday read and approved

Mr. Mesick was granted leave of absence for the day.

Mr. Woodworth was granted leave of absence for two days.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly, on the 16th instant, passed Assembly Bill No. 409, an Act to separate the Office of Collector from the Office of Sheriff, in the County of El Dorado.

Also, Assembly Bill No. 375, an Act to fix the compensation of the Supervisors of the Counties of Butte and Amador.

Also, on the 17th, Assembly Bill No. 415, an Act for the relief of S. H. Marlette, and others.

Also, have this day concurred in Senate amendments to Assembly Bill No.

269, an Act to provide for the payment of Volume V. of the Reports of the Supreme Court of California.

J. W. SCOBEEY,  
Assistant Clerk.

April 20, 1857.

Assembly Bill No. 415, was read first and second times and referred to the Committee on Claims.

Assembly Bill No. 409, was read first and second times, and referred to the El Dorado Delegation.

Assembly Bill No. 375, was read first and second times, and referred to the Delegations from Amador and Butte.

#### SECOND READING OF BILLS.

Senate Bill No. 233, an Act to reduce and fix the *per diem* of members, officers and employees of the Legislature, and other employees of the Government, was read a second time.

Mr. Bell moved to refer the bill to a Special Committee of Five.

Mr. Ashley moved to refer to Committee on Public Expenditures.

After much discussion, Mr. Ashley rose to a point of order: That the Senator from Alameda could not speak twice upon the same subject.

The Chair decided the point of order well taken.

Mr. Bell then rose to a privileged question, when Mr. Dosh rose to a point of order; which was: That the Senator could not rise to a privileged question when a motion was pending.

The Chair ruled the point of order not well taken.

From which decision, Mr. Ashley appealed, and the Senate overruled the decision of the Chair.

The bill was then referred to the Committee on Public Expenditures.

Mr. Bell again rose to a privileged question.

After some debate, objections being made to the Senator's proceeding, Mr. Ashley moved that leave be granted the Senator to proceed; which was put and carried.

After further discussion by the Senator, Mr. Ashley rose to a point of order: The ten minutes time of the Senator, allowed by the rules, had expired.

The Chair ruled the point of order well taken.

Mr. Coffroth moved that the Senator have leave to proceed; which was put and lost. So the Senator was declared by the Chair to be out of order, and took his seat.



Mr. McCallum then rose to a privileged question; which was, in relation to the charge made by Senator Bell as to his, McCallum's, vote on State Debt bill.

At the conclusion of the Senator's remarks, on motion of Mr. Carpenter, the Senate took a recess of ten minutes, in order to prepare for the organization of the Senate as a High Court of Impeachment.

The recess having expired, the Senate was called to order  
President in the chair.

Roll called, the following Senators absent: Messrs. Mesick, Walkup, Wilson, and Woodworth, on leave.

The President announced that all legislative and executive business would cease, and the Senate resolve itself into a High Court of Impeachment, for the trial of Geo. W. Whitman, Controller of State.

Whereupon, the Secretary of the Senate notified the Assembly of the organization of the Court, and the Sergeant-at-Arms made proclamation of the same at the door of the Senate chamber.

The managers on the part of the Assembly, and the Counsel for the defendant, being present, Mr. Perley, for the defense, resumed and concluded his argument. Mr. Phil. Edwards then addressed the Court on part of the defense, and upon the conclusion of his remarks—

On motion of Mr. Cosby, the Court adjourned until to-morrow at 11 o'clock.

In Senate.—On motion of Mr. Coffroth, the Senate adjourned.

Approved April 21st, 1857.

R. M. ANDERSON,  
President Senate.

Attest:

GEO. S. EVANS, Secretary Senate.

## IN SENATE.

TUESDAY, April 21st, 1857

Senate met pursuant to adjournment.

The President in the Chair.

Roll called.

Journals of yesterday read and approved.

Mr. Bynum was granted indefinite leave of absence.

Mr. Taliaferro, Chairman of the Committee on State Hospitals, made the following report:

*Mr. President :*

Your Committee on Hospitals, to whom was referred Senate Bill No. 160, concerning Officers of the State Insane Asylum, have had it under consideration, and beg leave to report:

That a majority of the committee are opposed to it from the fact that it proposes to take from the Legislature the power which it now possesses of appointing these officers, and give that power to the Governor, by and with the consent of the Senate. Your committee are aware of the plausible argument that will be used in favor of this change, which is, that the appointment of these officers, from the sacredness of their trust and the very peculiar nature of the duties they are called upon to perform, should be divested of every thing like party consideration. Agreeing with those who raise the question that the appointment of these officers should be free of all party consideration, will this bill remedy the evil? It seems to us, to use a homely phrase, that we would be jumping from the frying-pan into the fire, for is not the Governor as much dependent upon party as the Legislature? and has not the rule become universal from practice, with all of our Executives, from the President of the United States down to every Governor of the different States, that to the victors belong the spoils? It was in evidence but the other day before this Senate, when the high Executive of this State acknowledged the debt of political obligation. It might be safely averred that the Legislature is less dependent upon party than the Executive, for we frequently see members representing counties of different politics from themselves, but the Executive seldom or never, a State of different politics. Therefore a Legislature is less apt to be governed by party considerations in filling these places of trust than the Executive.

Another idea has been started by a member of this committee, who dissents from this majority report, which is this: that the Legislature cannot fill an office that has been created by a Legislature. Your committee is so little versed in Constitutional lore, and the idea is so novel a one, that it feels somewhat "*obfuscated*," in meeting a proposition that is so much in variance with all the preceding legislation of this State. We presume that the sixth section of article eleventh of the Constitution of the State of California, has given rise to this question. It reads thus:

"All officers whose election or appointment is not provided for by this Constitution, and all officers whose offices may hereafter be created by law, shall be elected by the people, or appointed, as the Legislature may direct."

As we take it, everything rests upon the sense that is meant to be conveyed by the word "appoint." We are disposed to think the words "appoint" and "elect," are synonymous, constitutionally speaking. We can refer to but one single instance to support us in this belief—not being blessed with any superabundance of Constitutional learning;—we refer to section first of article second of the Constitution of the United States, which says, alluding to the election of President and Vice President: "Each State shall *appoint*, in such manner as the Legislature thereof may direct, a number of electors." Now, if *appoint* is not synonymous with *elect*, in this instance, and does not mean one and the same thing, then we have never elected, yet, a President and Vice President of the United States, and we stand to-day without a President and Vice President;—an idea which we imagine would be rather startling to the American people.

All the preceding, and the present Legislature of this State, have acted upon the principle that they had the right to elect officers to the offices that have been created by them.

Without extending our researches farther, this question is certainly a doubtful one. Would it be wise in us, upon the supposition that we had not the Constitutional right to elect, to peremptorily settle the matter by divesting ourselves hurriedly of that doubtful right? Would it not be wiser to submit this matter

to the Supreme Court, whose duty it is to decide upon the Constitutionality of our measures? No one would be injured by such a course. If the Court should decide that we had not the power to elect, then the power of the Governor to appoint, is clearly marked out by the Constitution, without the passage of this bill. If we should act differently, and pass this bill, and it should afterward be decided that we had the right to elect, then we will have divested ourselves of a right, upon the bare supposition that we had not that right.

In conclusion of this subject, we would respectfully ask, what difference is there—and if any, how much—between an election by appointment, or an appointment by election?

Section second proposes to reduce the salary of Resident Physician, from five to four thousand dollars. Inclined as we are to economical reform, a majority of your committee are opposed to this reduction. This office is a highly responsible, laborious, and confining one, and requires medical talent of the highest order to fill it properly. The law under which this office is created, precludes the possibility of this physician engaging in any other pursuit.

A majority of this committee would therefore recommend the indefinite postponement of this bill.

A. W. TALIAFERRO.

Report accepted, and with bill placed on calendar.

Mr. Crandall made the following report:

*Mr. President :*

Your Committee on Enrollment have examined and found correctly enrolled Senate Bill No. 85, an Act to authorize the Board of Supervisors of Nevada County to levy a Special Tax for county purposes.

Also, Senate Bill No. 206, an Act to authorize Chas. J. Collins, his associates and assigns, to build a Wharf at or near Point Colberg, in Solano county.

D. CRANDALL,

Chairman.

Mr. Mandeville in the chair.

Mr. Norman made the following report:

*Mr. President :*

The Committee on Mines and Mining Interests has had under consideration Senate Bill No. 141, entitled an Act supplemental to an Act entitled an Act to provide for the formation of Corporations for certain purposes, passed April 14, 1853. The committee rose, reported the bill back to the Senate with the following amendments, and recommend its passage:

In line 94, strike out "valuation of."

In line 95, strike out all after "Commissioners" down to the words "the pro- jection," and insert "shall not take into consideration the improved value of said lands, real estate or property by reason of"

In line 108, after "certainty" insert the following: "And upon the filing of said certificate the said corporation shall pay the amount so assessed to the owner or owners, or their agent, and this Act shall not bind the parties until such payment be made, nor shall said corporation appropriate said property until such payment be made."

In line 141, after the word "act" strike out all to the words "and hold," in line 142.

In line 152, strike out the words "or any other."

WM. B. NORMAN,  
Chairman.

S. H. DOSH,  
S. A. MERRITT,  
G. J. CARPENTER.

Report received, and bill and amendments placed on the calendar.

Mr. Crandall made the following report:

*Mr. President :*

The committee to whom was referred Assembly Bill No. 115, an Act amendatory of an Act entitled an Act to establish the boundaries of Amador County and fix the County Seat thereof, have had the same under consideration, and respectfully recommend its passage without amendment.

D. CRANDALL,  
WM. B. NORMAN.

Report accepted and bill placed on calendar.

Mr. Crandall also made the following report:

*Mr. President :*

The committee to whom was referred Assembly Bill No. 375, an Act to fix the compensation of the Supervisors of the counties of Butte and Amador, have had the same under consideration, and respectfully report the same back to the Senate without amendments and recommend its passage.

D. CRANDALL,  
WM. B. McGEE,

On motion of Mr. McGee, the rules were suspended the bill considered, read third time and passed.

The following message was received from the Governor:

EXECUTIVE DEPARTMENT,  
Sacramento, April 18th, 1857. }

*To the Senate of California :*

I have this day approved an Act amendatory of and supplementary to an Act to repeal the several Charters of the City of San Francisco, to establish the Boundaries of the City and County of San Francisco, and to consolidate the Government thereof, approved April 19, 1856.

Also, an Act to authorize the Main Street Wharf Company to build a Wharf in the County of Solano.

J. NEELY JOHNSON.

The following message was received from the Assembly:

*Mr. President :*

I am directed to inform the Senate that the Assembly, on Saturday, 18th inst., passed the following bills:

Assembly bill No. 402, an Act granting to Gideon Aughinbaugh, and such



party as he may associate with him, certain overflowed lands on which the wharf constructed by him and others is situated.

Also, Assembly bill No. 376, an Act to amend an Act to provide for choosing Electors for President and Vice President of the United States, passed April 28th, 1852.

Also, Assembly bill No. 306, an Act to amend the first section of an Act entitled an Act concerning Passengers arriving in Ports of the State of California, passed May 3, 1852, and which was amended by an Act approved April 2, 1853.

Also, have passed Senate bill No. 223, an Act concerning County Warrants.

Also, Senate bill No. 227, an Act to authorize the Board of Supervisors of Marin county to pay the Current Expenses of said county.

Also, Senate bill No. 225, an Act to adjust the amount of Indebtedness of the County of Napa to the County of Solano, and to provide for the payment thereof, with amendments, and ask the concurrence of the Senate in the same.

Also, have indefinitely postponed Senate bill No. 205, an Act to amend an Act entitled an Act to regulate Proceedings in Criminal Cases, passed May 1, 1851.

Also, have concurred in Senate Concurrent Resolution, urging on Congress the establishing a new and separate Steamboat Inspection District.

Also, have passed Assembly Joint Resolution No. 10, relative to Agricultural Affairs.

Also, have concurred in Senate substitute to Assembly Concurrent Resolution, instructing the District Attorneys to bring suit against certain County Treasurers and Sheriffs.

And, on the 18th, concurred in Senate amendments to the following Assembly Bills:

Assembly Bill No. 160, an Act to provide for the payment of the debt of Santa Cruz County.

Assembly Bill No. 97, an Act amendatory of, and supplementary to, an Act concerning Divorces, passed March 25, 1851.

Messrs. Ricks, Edwards and Stevenson, were appointed Committee of Conference on the part of the Assembly, on Assembly Bill No. 236, an Act to regulate fees of office in certain counties in this State, to confer with a committee on the part of the Senate.

W. CAMPBELL,

Clerk of Assembly.

April 20, 1857.

Assembly Bill No. 402, was read a first and second times, and referred to the Committee on Corporations.

Assembly Bill No. 376, was read first and second times, and referred to the Committee on Elections.

Assembly Bill No. 306, was read first and second times, and referred to the Finance Committee.

Senate Bill No. 225, with amendments; amendments concurred in.

Assembly Joint Resolution No. 10, relative to agricultural affairs, was read first and second times, and referred to Committee on Agriculture.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly on yesterday passed the following Assembly bills:

Assembly Bill No. 403, an Act for the relief of Silas Wilcox.

Assembly Bill No. 408, an Act to release E. S. Gray from liability to the State of California on a certain bond.

Assembly Bill No. 392, an Act relative to publishing, in the Counties of Santa Barbara and San Luis Obispo.

Assembly Bill No. 404, an Act for the relief of William Mock.

Also, passed Senate Bill No. 140, an Act to pay E. H. Burns for services rendered in the suppression of Indian Hostilities in the County of Klamath, in this State.

Senate Bill No. 208, an Act making a grant for a wharf at Monterey, and providing for the same.

Assembly Bill No. 126, an Act amendatory of an Act to provide for the protection of foreigners, and to define their liabilities and privileges, passed March 3, 1853.

W. CAMPBELL,  
Clerk of Assembly.

April 21, 1857.

Assembly Bill No. 403, was read first and second times, and referred to the Committee on Claims.

Assembly Bill No. 408, was read first and second times, and referred to the Judiciary Committee.

Assembly Bill No. 392, was read first and second times, and referred to the Delegation from San Luis Obispo and Monterey.

Assembly Bill No. 404, was read first and second times, and referred to the Committee on Claims.

Assembly Bill No. 126, was read first and second times and referred to the Committee on Mines and Mining Interests.

Mr. Bell, of the Committee of Free Conference on Assembly Bill No. 179, an Act to fix the compensation of certain officers in the Counties of Santa Clara, Santa Cruz, Monterey, Mariposa, Butte, Colusa, Napa, Yolo, San Joaquin and Yuba, made the following report:

*To the Senate and Assembly:*

The Committee of Free Conference on Assembly Bill No. 179, have considered the matter, and recommend that the Senate recede from the amendment striking out that part of the bill relating to Alameda County.

A. R. MELONY,  
D. R. ASHLEY,  
Senate Committee.  
JAS. B. LARUE,  
BEN. H. MILES,  
THOS. H. ANDERSON,  
Assembly Committee.

I most respectfully dissent from the report of a majority of the committee.

SAM. B. BELL.

The question being, "Shall the recommendation of the majority of the committee be adopted?" the ayes and noes were demanded by Messrs. Ashley, Melony and Shaw, and taken with the following result:

AYES.

Messrs. Ashley, Chase, Dosh, Goodwin, Johnson of Sacramento, Mandeville, McCallum, Melony, Norman, Shaw and Soule—11.

NOES.

Messrs. Bell, Carpenter, Crandall, Ferguson of Sierra, Fiske, Johnson of El Dorado, McGee, Mesick, Westmoreland and Woodworth—10.

Messrs. Coffroth, Cosby, Sullivan and Taliaferro.

So the recommendations of the majority were adopted.

Mr. Coffroth, Chairman of the Committee on Public Expenditures, made the following report:

*Mr. President:*

The Committee on Public Expenditures, to whom was referred Senate Bill No. 233, an Act to reduce and fix the per diem of Members, Officers and Employees of the Legislature and other Employees of the Government, have had the same under consideration, and recommend its passage.

JAS. W. COFFROTH,  
Chairman.

Report accepted, and with bill, made the special order of the day for to-morrow, 22d inst., at 11 o'clock.

Mr. Melony, Chairman of the Committee on Engrossment, made the following report:

*Mr. President:*

The Committee on Engrossed Bills have examined and found correctly engrossed, Senate Bill No. 4, entitled an Act for the better protection of Mining Interests.

Also, Senate Bill No. 232, entitled an Act to provide for the construction of a Wagon Road from Oroville, Butte County, to, and intersecting at the most practicable point, the line of the supposed National Wagon Road that has its terminus at or near Honey Lake, Plumas County.

A. R. MELONY, Chairman.

On motion of Mr. McGee, the rules were suspended and Senate Bill No. 232 was taken up, and considered, read a third time and passed.

Mr. Dosh moved to amend the title of the bill by striking out the words "Plumas county."

Mr. McCallum rose to discuss the matter.

Whereupon Mr. McGee rose to a point of order: "The bill had passed, and its merits could not be discussed."

The Chair ruled the point not well taken.

Mr. Norman moved to lay the bill on the table, which was lost.

Mr. Norman then moved to indefinitely postpone the motion to strike out.

Mr. Fiske moved that the Senate take a recess, which was lost.

Mr. Melony proceeded to discuss the merits of the bill; objections being made, and the Chair entertaining them, Mr. Norman rose to a point of order: "The Senator had a right to discuss the merits of the bill."

The Chair ruled the point not well taken.

Mr. Melony appealed from the decision of the Chair.

Mr. Ashley moved the previous question.

Sustained.

Question, "Shall the main question be now put?" was put and carried.

Question, "Shall the decision of the Chair stand as the judgment of the Senate?" was put and the Chair sustained.

The question recurring upon the motion of Mr. Norman, to indefinitely postpone the motion to amend by striking out, was put and lost.

The question recurring upon the motion of Mr. Dosh, to strike out Plumas County, was put and lost.

The title of the bill was then read and approved.

Mr. Ferguson, of Sacramento, offered the following resolution:

*Resolved*, That the Committee on Public Lands are hereby instructed to report back to the Senate, on Thursday morning next, the various Swamp and Overflowed Land Bills now before them, and that the same be made the special order for 12 o'clock of the same day.

Adopted.

Mr. Coffroth offered the following resolution:

*Resolved*, That the San Francisco Delegation be instructed to report back, to-morrow morning, Senate Bill No. 129, directing the payment of the Board of Examiners of that city.

Adopted

Mr. Fiske moved that the Senate take a recess of five minutes.

Lost.

The hour having arrived for the organization of the Senate as a High Court of Impeachment, the President announced the suspension of all Executive and



Legislative business, and that the Senate was organized as a High Court of Impeachment, for the trial of George W. Whitman, Controller of State.

Whereupon, the Secretary of the Senate announced to the Assembly the organization of the Court.

The Sergeant-at-Arms made proclamation at the door of the Senate.

### HIGH COURT OF IMPEACHMENT.

The managers on the part of the Assembly, and counsel for the defendant, being present, Mr. Hall, of the managers, opened his argument for the State and concluded the same.

The argument on the part of the State, and of the defense, being closed—

Mr. Coffroth moved a call of the Court.

Carried.

The roll being called, the following Senators were absent: Messrs. Bynum, De la Guerra, Walkup, and Wilson, by leave.

Mr. McCallum presented the following order:

*Ordered*, That the Articles of Impeachment be considered in open court.

Which was put and lost by the following vote:

#### AYES.

Messrs. Carpenter, Chase, Ferguson of Sacramento, Fiske, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, McGee, Merritt, Norman and Soule—12.

#### NOES.

Messrs. Ashley, Bell, Burnett, Coffroth, Cosby, Crandall, Dosh, Ferguson of Sierra, Goodwin, Mesick, Shaw, Sullivan, Taliaferro, Waite, Westmoreland and Woodworth—16.

Mr. Melony declined voting.

So the Senate went into secret session.

The injunction of secrecy having been removed—

### IN SECRET SESSION.

On motion of Mr. Carpenter, the Official Reporter, Mr. Coates, remained in the Senate Chamber.

Mr. Westmoreland presented the following order:

*Ordered*, That no member be permitted to speak on the question involved in this Impeachment.

Which was adopted by the following vote:

AYES.

Messrs. Bell, Burnett, Chase, Coffroth, Cosby, Crandall, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Goodwin, Johnson of Sacramento, Johnson of El Dorado, McGee, Merritt, Mesick, Norman, Taliaferro, Waite and Westmoreland—19.

NOES.

Messrs. Ashley, Carpenter, Fiske, Mandeville, Shaw, Soule, Sullivan and Woodworth—8.

Mr. McCallum declined voting.

Mr. Ashley presented the following order:

"That the Senate proceed to vote upon each Article of Impeachment separately."

Which was adopted without objection.

It was ordered by the Court that each member in voting should, as his name was called, if voting *Guilty*, say "Aye;" if voting *Not Guilty*, say "No."

The first Article of Impeachment was then read by the Secretary, and the roll called with the following result:—Not Guilty, 27 ; Guilty, 0.

Mr. Cosby, when his name was called, asked to be excused from voting: stating that he did not expect to be present during the trial of this cause, and had not been present during the entire examination of the cause.

Whereupon he was allowed to withdraw from the bar of the Senate.

AYES.

None.

NOES.

Messrs. Ashley, Bell, Burnett, Carpenter, Chase, Coffroth, Crandall, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, McGee, Merritt, Mesick, Norman, Shaw, Soule, Sullivan, Taliaferro, Waite, Westmoreland and Woodworth—27.

So the charge was not sustained.

The second Article of Impeachment was then read, and the roll called with the following result:—Guilty, 2 ; Not Guilty, 25:

AYES.

Messrs. Norman and Sullivan—2.

## NOES.

Messrs. Ashley, Bell, Burnett, Carpenter, Chase, Coffroth, Crandall, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, McGee, Merritt, Mesick, Shaw, Soule, Taliaferro, Waite, Westmoreland and Woodworth—25.

So the charge was not sustained.

The third Article of Impeachment was then read, and the roll called with the following result.—Guilty, 6 ; Not Guilty, 21.

## AYES.

Messrs. Ashley, Crandall, Dosh, Johnson of El Dorado, Norman and Sullivan—6.

## NOES.

Messrs. Bell, Burnett, Carpenter, Chase, Coffroth, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Mandeville, McCallum, McGee, Merritt, Mesick, Shaw, Soule, Taliaferro, Waite, Westmoreland and Woodworth—21.

The fourth Article of Impeachment was then read, and the roll called with the following result:—Guilty, 6 : Not Guilty, 21.

## AYES.

Messrs. Ashley, Crandall, Johnson of El Dorado, Norman, Soule and Sullivan—6.

## NOES.

Messrs. Bell, Burnett, Carpenter, Chase, Coffroth, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Mandeville, McCallum, McGee, Merritt, Mesick, Shaw, Taliaferro, Waite, Westmoreland and Woodworth—21.

The fifth Article of Impeachment was then read, and the roll called with the following result:—Not Guilty, 26 ; Guilty, 0.

## AYES.

None.

## NOES.

Messrs. Ashley, Bell, Burnett, Carpenter, Chase, Coffroth, Crandall, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, McGee, Merritt, Mesick, Norman, Shaw, Soule, Taliaferro, Waite, Westmoreland and Woodworth—26.

Mr. Sullivan declined voting.

The sixth Article of Impeachment was then read, and the roll called with the following result:—Guilty, 4 ; Not Guilty, 22.

## AYES.

Messrs. Johnson of El Dorado, Norman, Sullivan and Woodworth—4.

## NOES.

Messrs. Ashley, Bell, Burnett, Carpenter, Chase, Coffroth, Crandall, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, McCallum, McGee, Merritt, Mesick, Shaw, Soule, Taliaferro, Waite and Westmoreland—22.

Mr. Mandeville declined voting.

The seventh Article of Impeachment was then read, and roll called with the following result:—Guilty, 6 ; Not Guilty, 21.

## AYES.

Messrs. Crandall, Dosh, Johnson of El Dorado, Norman, Soule and Sullivan—6.

## NOES.

Messrs. Ashley, Bell, Burnett, Carpenter, Chase, Coffroth, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Mandeville, McCallum, McGee, Merritt, Mesick, Shaw, Taliaferro, Waite, Westmoreland and Woodworth—21.

None of the articles of Impeachment having been sustained, Mr. Goodwin presented the following order:

*Resolved*, That the Senate of the State of California, sitting as a High Court of Impeachment, for the trial of G. W. Whitman, impeached by the Assembly of said State for misdemeanor in office, having heard all the testimony offered on behalf of the State, as well as that offered for the defense, together with all the arguments of counsel, and being fully advised of all matters in relation thereto, do hereby adjudge and declare said Whitman acquitted of all the charges made against him in said Articles of Impeachment aforesaid; and further that he be, and is hereby restored to the office of Controller of the State of California, from which office he has been temporarily suspended, by reason of the trial of the impeachment as aforesaid.

Mr. McCallum moved to strike out all after the word "aforesaid;" which was lost, by the following vote:

## AYES.

Messrs. Burnett, Carpenter, Chase, Dosh, Ferguson of Sierra, Johnson of El Dorado, McCallum, Merritt, Shaw, Sullivan, and Taliaferro—11.

## NOES.

Messrs. Ashley, Bell, Coffroth, Crandall, Ferguson of Sacramento, Fiske, Goodwin, Johnson of Sacramento, Mandeville, McGee, Mesick, Norman, Soule, Waite, Westmoreland, and Woodworth—16.

Mr. Soule offered the following as a substitute:

*Resolved*, by the Senate, sitting as a High Court of Impeachment, That Geo. W. Whitman be declared acquitted of the charges preferred against him by the Assembly on the 25th day of February, A. D. 1857.



Question being, Shall the order offered by Mr. Goodwin be first voted upon ? the roll was called, and decided in the negative by the following vote:

AYES.

Messrs. Ashley, Bell, Coffroth, Ferguson of Sacramento, Fiske, Goodwin, Johnson of Sacramento, McGee, Mesick, Taliaferro, and Waite—11.

NOES.

Messrs. Burnett, Carpenter, Chase, Crandall, Dosh, Ferguson of Sierra, Johnson of El Dorado, Mandeville, McCallum, Merritt, Norman, Shaw, Soule, Sullivan, Westmoreland, Woodworth—16.

Mr. Mesick offered the following amendment: "And that he be restored to the office of Controller."

Upon which, the roll was called with the following result:

AYES.

Messrs. Ashley, Bell, Coffroth, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Mandeville, McGee, Mesick, and Waite—12.

NOES.

Messrs. Burnett, Carpenter, Chase, Crandall, Dosh, Johnson of El Dorado, McCallum, Merritt, Norman, Shaw, Soule, Sullivan, Taliaferro, Westmoreland, and Woodworth—15.

Mr. Norman offered the following amendment: But that G. W. Whitman deserves to be censured for his official conduct; inasmuch as he has been guilty of great carelessness, and has failed to render such aid to the Board of Examiners as was implied by law; which was rejected by the following vote:

AYES.

Messrs. Carpenter, Crandall, Johnson of El Dorado, Norman and Sullivan—5.

NOES.

Messrs. Ashley, Bell, Burnett, Chase, Coffroth, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Mandeville, McCallum, McGee, Merritt, Mesick, Shaw, Soule, Taliaferro, Waite, Westmoreland, and Woodworth—22.

The roll was then called on the resolution of Mr. Soule, and adopted by the following vote:

AYES.

Messrs. Ashley, Bell, Burnett, Carpenter, Chase, Coffroth, Crandall, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, McGee, Merritt, Mesick, Shaw, Soule, Taliaferro, Waite, Westmoreland, and Woodworth—25.

NOES.

Messrs. Norman and Sullivan—2.

On motion of Mr. McCallum, the injunction of secrecy was removed, the doors of the Senate Chamber were then opened for the purpose of announcing the judgment of the Court.

Whereupon, the Sergeant-at-Arms called the defendant, George W. Whitman, in open Court.

The defendant, George W. Whitman, having appeared within the bar of the Senate, the President of the Senate directed the Secretary of the Senate to read the following as the judgment of the Court:

*Resolved*, by the Senate, sitting as a High Court of Impeachment, that Geo. W. Whitman be declared acquitted of the charges preferred against him by the Assembly on the 25th day of February, A. D. 1857.

On motion of Mr. McCallum, the Court adjourned *sine die*.

On motion of Mr. Westmoreland, the Senate adjourned.

Approved April 22d, 1857.

R. M. ANDERSON,  
President of the Senate.

Attest:

GEO. S. EVANS, Secretary of the Senate.

## IN SENATE.

WEDNESDAY, April 22, 1857.

Senate met pursuant to adjournment.

President in the chair.

Roll called.

Journals of yesterday read and approved.

Mr. McCallum in the chair.

Mr. Fiske, of the Committee on Claims, made the following report:

*Mr. President :*

The undersigned, of the Committee on Claims, to whom was referred the claim of G. W. Ryckman, for supplies furnished the State Prison in the months of November and December, 1855, to the amount of \$15,383 01, would report that they have given the same a careful consideration; they have investigated the several items in said claim, and have reduced the prices affixed to each in accordance with the sworn testimony of several wholesale merchants, who appeared before us and testified as to the value of the several articles at the time they were furnished to the State. We accordingly report as due from the State to said Ryckman, the sum of \$10,619 81, which sum your committee would re-

commend be audited and allowed him by this Legislature, and placed on the same footing as all other indebtedness of the State, accruing prior to January 1, 1857.

All of which is respectfully submitted.

April 22, 1857.

HENRY M. FISKE,  
W. C. BURNETT.

Report accepted, and with claim placed on file.

Mr. Waite, of the Committee on State Hospitals, made the following minority report:

*Minority Report of Hospital Committee on Senate Bill No. 160.*

The bill has but two propositions, namely: to remove the appointment of the Resident and Visiting Physicians to the Asylum for the Insane, from the Legislature, and vest it with the Governor, by and with the advice and consent of the Senate; and to reduce the salary of the Resident Physician from \$5,000 per annum to \$4,000.

In regard to the first proposition, it is only necessary to say in its defense, that the wisdom of nearly every State in the Union has decided in its favor. With but two or three exceptions, the Resident Physicians of the Lunatic Asylums of the several States are appointed by the Governor, by the consent of the Senate, and in no instance, of which the undersigned is aware, is the election of Physicians to Asylums vested in the Legislature, except in our own State. The reason that the power should be removed from the Legislature is obvious. The office is one which should be as far removed from the influence of party and partisan feelings as possible. This has been the opinion of men who have given the subject attention; such was the recommendation of the convention composed of Superintendents of Asylums which assembled at Baltimore in May, 1853: and such must be the conviction of any one who bestows a moment's consideration upon the subject.

Besides, it is a matter of grave doubt whether the Legislature can create an office like that of Physician to a State institution, and reserve to itself the right to fill the same. On this point, high authority can be produced to show, at least, that a change in the law such as is contemplated in this bill is desirable.

Article third of the Constitution of the State, separates the powers of the Government into three distinct departments—Legislative, Executive, and Judicial; and declares that "No person charged with the exercise of powers properly belonging to one of these departments, shall exercise any functions appertaining to either of the others, except in the cases hereinafter expressly directed or permitted." It is quite clear that it is competent for the Legislature to create the office of Resident Physician, it being a purely Legislative function; but to fill that office when created, is an Executive function; which the Legislature cannot perform, as no exceptions are "expressly directed or permitted" in its favor, in any subsequent provisions of the Constitution.

Mr. Jefferson, in a letter to Samuel Kerchival, dated July 12, 1816, uses language much in support of the position we have assumed. He says:

"Nomination to office is an Executive function. To give it to the Legislature is a violation of the principle of a separation of powers. It swerves the members from correctness, by temptations to intrigue for office themselves, and to a corrupt barter of votes. By leaving nomination in its proper place, among Executive functions, the principle of the distribution of power is preserved."

The Legislature undoubtedly possesses the power to declare *how* an office of its own creation shall be filled; but not to retain the appointing or electing

power in itself; as it would clearly be a violation of the principle of a distribution of powers, as provided for in Article third of the Constitution. Besides, the sixth section of Article eleven of the Constitution, provides that "All officers whose offices may hereafter be created by law, shall be elected by the people, or appointed, as the Legislature may direct." Now, *appointed* and *elected* are not synonymous terms. The Legislature can *elect*,—the Governor, or some other Executive officer, *appoint*;—but the functions pertaining to one department cannot be exercised by another.

Again, the terms of the law in which the bill contemplates a change, seems to indicate that it was the intention of the Legislature that enacted it, that the Governor, after the first election, should appoint the Physicians to the Asylum. The following language occurs: "He [the Resident Physician] shall hold his office for two years, and until his successor is appointed and qualified." Care was here taken to use the Constitutional term "*appointed*," which indicates an Executive act, as we have before shown.

With respect to the contemplated reduction of salary, it is proper to remark, that under present enactments the Resident Physician holds an office for which is paid a larger salary, proportionably, than the Governor, after the first day of January next, will receive. The Governor is to get but \$6,000, and must furnish his own house, and provide for himself; the Physician gets \$5,000, and is furnished with a residence and board. Besides, \$4,000, in cash, is better pay than \$5,000, in scrip, in which shape the pay of officers of the State has been tendered hitherto.

E. G. WAITE,  
Of the Hospital Committee.

Mr. Merritt made the following report:

*Mr. President :*

The undersigned, Senator from the Sixth District, embracing the county of Tulare, to whom was referred Assembly bill No. 389, "An Act fixing travelling fees in Tulare County," has had the same under consideration, and begs leave to report it back to the Senate, and recommend its passage without amendments

S. A. MERRITT,  
Senator 6th Dist.

Report accepted, and with bill placed on calendar.

Mr. Merritt, Chairman of the Committee on Federal Relations, made the following report:

*Mr. President :*

The Committee on Federal Relations, to whom was referred Assembly Joint Resolution No. 11, relative to the establishment of an additional Land Office in this State, have had the same under consideration, and beg leave to report the same back to the Senate, and recommend the passage of the resolution without amendments.

All of which is respectfully submitted.

S. A. MERRITT, Chairman.

Also, the following:

*Mr. President :*

The Committee on Federal Relations, to whom was referred Assembly Joint Resolution No. 9, have had the same under consideration, and beg leave to



report that, in the opinion of your committee, the resolutions recommending to Congress to locate the Indians within the State of California, is unwise in policy, and alike unjust to the people of the State and to the Indians. Such a policy has not been pursued by the General Government towards any other State in the Union, but almost without exception the General Government has located the Indians beyond the boundaries and jurisdiction of the States. Your committee further, very much doubt the power of the General Government to locate Reservations which must necessarily be under the control of the General Government, within the boundaries of any State, without the consent of the people of that State.

Under these circumstances, your committee recommend the indefinite postponement of the resolutions.

S. A. MERRITT, Chairman.

Also the following:

*Mr. President :*

The Committee on Federal Relations, to whom was referred Assembly Concurrent Resolutions, relative to the establishment of certain Mail Routes, have had the same under consideration, and believing the recommendation and instructions contained therein to be eminently just and reasonable, and to be demanded by the necessities of the country, recommend the adoption of the resolution without amendment.

All of which is respectfully submitted.

S. A. MERRITT, Chairman.

Reports accepted, and with resolutions placed on the calendar.

Mr. Crandall, Chairman of the Committee on Enrollment, made the following report:

*Mr. President:*

Your Committee on Enrollment presented to the Governor, on the 21st inst., for his approval, Senate bill No. 85, an Act to authorize the Board of Supervisors of Nevada County to levy a Special Tax for County purposes.

Also, Senate bill No. 206, an Act to authorize Charles J. Collins, his associates and assigns, to build a Wharf at or near Point Colbery, in Solano county.

D. CRANDALL.

Mr. Ashley, Chairman of the Judiciary Committee, made the following report:

*Mr. President:*

The Judiciary Committee has considered an Act to amend an Act concerning Evidence, and believing that such an Act is much needed, would recommend its passage.

D. R. ASHLEY, Chairman.

Report accepted, and bill considered, read first and second times, and placed on calendar.

Mr. Ashley, Chairman of the Judiciary Committee, made the following report :

*Mr. President :*

The Judiciary Committee, to whom was referred Senate bill No. 211, an Act

to repeal an Act for the relief of Insolvent Debtors and the protection of Creditors, passed May 4, 1852.

Also, Assembly bill No. 198, an Act to repeal an Act entitled an Act to authorize Married Women to transact business in their own name as sole traders.

Also, Assembly bill No. 343, an Act granting the right to the Administrator of George O. Gunn, deceased, to sell the real estate belonging to said estate at private sale, have had the same under consideration, and beg leave to report the same back for the further consideration of the Senate.

Also, Senate bill No. 167, an Act additional to an Act entitled an Act to regulate Proceedings in Civil Cases in the Courts of Justice of this State, passed April 29, 1851, and unanimously recommend its indefinite postponement.

Also, Assembly bill No. 235, an Act concerning the Records and Proceedings of the Courts of Sessions, County Courts, and Probate Courts of this State, and the Superior Court of the City of San Francisco, and recommend its passage, with the following amendment: Sec. 1, line 4, strike out the words "and of the Superior Court of the City of San Francisco." Also, strike out the same words in the title of the bill.

Also, Assembly bill No. 408, an Act to release B. S. Gray from liability to the State of California on a certain bond, and recommend its passage.

D. R. ASHLEY,  
Chairman.

Report accepted, and with bills, placed on calendar.

Mr. McCallum, of the Judiciary Committee, made the following report:

*Mr. President :*

The Judiciary Committee, to whom was referred an Act to amend an Act regulating Fees in Office, passed April 10, 1855, have had the same under consideration, report the same back, and recommend its passage.

McCALLUM, of Committee.

Report accepted, and with bill, placed on calendar.

Mr. Coffroth, Chairman of the Committee on Public Lands, made the following report:

*Mr. President :*

The Committee on Public Lands, to whom was referred Assembly joint resolutions in relation to extending pre-emption privileges to settlers upon the public lands in the State of California, report the same back and recommend their passage.

COFFROTH, Chairman.

Report accepted, and with resolutions, placed on calendar.

Mr. Shaw, Chairman of the Committee on Claims, made the following report:

*Mr. President :*

The Committee on Claims, to whom was referred certain amounts for services as Sergeant-at-Arms, and for lights, room, fuel, &c., afforded the Insane Asylum Investigating Committee, amounting in all to \$90, recommend that the same be paid out of the contingent fund of the Senate, and herewith submit a resolution for that purpose.

WM. J. SHAW, Chairman.

*Resolved*, That the following sums be paid out of the contingent fund of the Senate, to wit: To R. Manning, fifty dollars, for fuel, lights, &c., for use of Insane Asylum Investigating Committee; and to J. Benadon, forty dollars, for services as Sergeant-at-Arms for said committee.

Report accepted, and on motion, resolution adopted.

Mr. Melony, Chairman of the Committee on Engrossment, made the following report:

*Mr. President :*

The Committee on Engrossed Bills have examined and found correctly engrossed, Senate Bill No. 171, entitled an Act amendatory of and supplementary to an Act in relation to Personal Mortgages in certain cases, passed May 11th, A. D. 1853.

A. R. MELONY,  
Chairman.

April 21, 1857.

Mr. Ashley made the following report:

*Mr. President :*

The committee to whom was referred Assembly Bill No. 369, report an Act authorizing Henry Depaw to build a Wharf at Monterey, and recommend the passage of the same as a substitute for Assembly Bill No. 369.

D. R. ASHLEY.

Report accepted, and with bill, placed on calendar.

Mr. De La Guerra made the following report:

*Mr. President :*

The undersigned respectfully reports back Assembly Bill No. 392, an Act relative to Publishing in the counties of Santa Barbara and San Luis Obispo, and recommend its passage.

DE LA GUERRA,  
Chairman.

Report accepted, and with bill, placed on calendar.

Mr. Woodworth, of the San Francisco Delegation, made the following report:

*Mr. President :*

The Special Committee to whom was referred an Act to authorize the Board of Supervisors of the City and County of San Francisco, to provide for the compensation due the Board of Examiners of said city, report that they have examined the same, and find that it provides for paying certain claims against said city and county, which accrued prior to July 1st, 1856. They further report that provision has been already made, by a law passed on Saturday, the 18th inst., and that no further legislation is necessary concerning this matter. Therefore, they unanimously recommend that the said bill be indefinitely postponed.

E. L. SULLIVAN,  
WM. J. SHAW,  
F. A. WOODWORTH,  
SAM. SOULE.

Report accepted.

On motion of Mr. Coffroth, the rules were suspended and the bill considered.

The question being on the indefinite postponement of the bill, the ayes and noes were demanded by Messrs. Shaw, Soule and Coffroth, and the Secretary proceeded to call the roll.

Mr. Shaw rose to discuss the bill.

Objections being made, the Chair ruled that discussion was not in order.

Mr. Shaw rose to a point of order: "A Senator had a right to explain his vote on any bill."

The Chair ruled the point not well taken, the Secretary having commenced calling the roll.

The roll-call was then completed with the following result:

#### AYES.

Messrs. Chase, Fiske, Johnson of Sacramento, Shaw, Soule, Sullivan, Waite and Woodworth—8.

#### NOES.

Messrs. Bell, Burnett, Bynum, Coffroth, Cosby, De la Guerra, Dosh, Ferguson of Sacramento, Goodwin, Johnson of El Dorado, McGee, Melony, Merritt, Mesick, Norman, Taliaferro and Westmoreland—17.

Messrs. Ashley, Carpenter, Crandall and McCallum declined voting.

So the Senate refused to indefinitely postpone.

On motion of Mr. Coffroth, the rules were further suspended, the bill considered engrossed, and read a third time.

Mr. Shaw called for the ayes and noes.

Mr. Merritt rose to a point of order—the Chair had announced the vote, and a call for the yeas and noes was not in order.

The Chair decided the point well taken.

Mr. Shaw appealed from the decision of the Chair.

Question—"Shall the decision of the Chair stand as the judgment of the Senate," was put, and the ruling sustained.

An affray having occurred in the lobby of the Senate, the Chairman ordered the Sergeant-at-Arms to arrest the offending parties, and bring them before the bar of the Senate.

The question being on the final passage of the bill, the yeas and noes were demanded by Messrs. Coffroth, Soule, and Shaw, and taken with the following result:



## AYES.

Messrs. Bell, Burnett, Bynum, Coffroth, Cosby, De La Guerra, Ferguson of Sacramento, Ferguson of Sierra, Johnson of El Dorado, Melony, Merritt, Norman, Taliaferro, Westmoreland—14.

## NOES.

Messrs. Carpenter, Fiske, Johnson of Sacramento, McCallum, Shaw, Soule, Sullivan, Woodworth—8.

Messrs. Ashley, Chase, Crandall, Dosh, Goodwin, McGee, Mesick, Waite, declined voting.

So the bill was passed.

The Sergeant-at-Arms reported the Doorkeeper, Mr. McClenchy, and Mr. Cornelius Stagg, as in arrest.

Mr. Cosby moved that a committee be appointed to investigate the circumstances connected with the affray, hear testimony, and report to the Senate.

Lost.

Mr. Crandall moved that the Doorkeeper make his statement of the particulars of the affray.

Carried.

Mr. McClenchy made his statement.

There being no objection, Mr. Stagg made his statement.

Mr. Morgan, of those present in the lobby, was then called to testify, and being duly sworn by the Secretary of the Senate, made a statement of the facts as witnessed by him.

Mr. Gregory Yale was also called, duly sworn, and testified.

Senator Goodwin made a statement of the facts as witnessed by him.

Messrs. Murray Morrison, S. Lyons and W. H. Carpenter, of those present in the lobby, were then called, sworn, and the testimony here closed.

Mr. Ferguson, of Sacramento, moved that Mr. Stagg be discharged from arrest, which was carried.

Mr. De La Guerra moved that the Door-Keeper be discharged from his office.

Mr. Dosh offered the following substitute:

*Resolved.* That Mr. McClenchy be suspended from the performance of his duties as Door-Keeper of this Senate for one day, and the President directed to reprimand him.

Upon which the ayes and noes were demanded by Messrs. Cosby, De La Guerra and Carpenter, and taken with the following result:

## AYES.

Messrs. Bell, Burnett, Chase, Crandall, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Johnson of El Dorado, McGee, Melony, Merritt, Norman, Taliaferro and Woodworth—15.

## NOES.

Messrs. Ashley, Bynum, Carpenter, Cosby, De La Guerra, Johnson of Sacramento, McCallum, Mesick, Shaw, Soule, Sullivan, Waite and Westmoreland—13.

Mr. Goodwin declined voting.

So the substitute was adopted.

Mr. De La Guerra moved to amend by striking out "one" and inserting "ten."

Mr. Burnett moved the previous question, which was sustained.

Question, "Shall the main question be now put?" was put and carried.

The main question being "Shall the amendment offered by Mr. De La Guerra be adopted?" the ayes and noes were demanded by Messrs. De La Guerra, Cosby and Carpenter, and taken with the following result:

## AYES.

Messrs. Ashley, Bynum, Carpenter, Cosby, De La Guerra, Ferguson of Sierra, Fiske, Johnson of Sacramento, McCallum, Mesick, Shaw, Soule, Sullivan, Waite and Woodworth—15.

## NOES.

Messrs. Bell, Burnett, Chase, Crandall, Dosh, Ferguson of Sacramento, Johnson of El Dorado, Mandeville, McGee, Melony, Merritt, Norman and Taliaferro—13.

Messrs. Coffroth, Goodwin and Westmoreland declined voting.

So the amendment was adopted.

The question being on the final passage of the resolution as amended, the ayes and noes were demanded by Messrs. Ashley, De La Guerra and Cosby, and taken with the following result:

## AYES.

Messrs. Ashley, Bynum, Carpenter, Cosby, De la Guerra, Ferguson of Sierra, Fiske, Johnson of Sacramento, Mesick, Shaw, Soule, Sullivan, Waite and Woodworth—15.

## NOES.

Messrs. Bell, Burnett, Chase, Crandall, Dosh, Ferguson of Sacramento, Johnson of El Dorado, Mandeville, McGee, Melony, Merritt, Norman and Taliaferro—13.

Messrs. Coffroth, Goodwin and Westmoreland declined voting.

So the resolution was adopted.

Mr. Norman moved that the Senate proceed to the election of a Door-Keeper to fill the vacancy occasioned by the suspension of Mr. McClenchy, which was carried.

Mr. Mandeville nominated Mr. McClenchy.  
 Mr. Carpenter nominated Mr. Lyons.  
 Mr. Ferguson nominated Mr. Williams.  
 Mr. Bell nominated Mr. Bee.

Nominations being closed, the Senate proceeded to ballot, with the following result:

Mr. McClenchy received.....	11	votes.
Mr. Williams " .....	19	"
<hr/>		
Total.....	30	

The Chair announced Mr. Williams duly elected Door-Keeper of the Senate for ten days.

Whereupon Mr. Williams came forward and took the oath of office.

Mr. Burnett, of the Committee on Claims, made the following report:

*Mr. President:*

The undersigned, of the Committee on Claims, to whom was referred the memorial and petition of Maj. J. S. Love, have had the same under consideration, and respectfully report in favor of allowing the memorialist the sum of \$2,411 34, and of auditing his claim for that amount, in like manner as other just claims that accrued against the State before the first day of January, 1857, may or ought to be audited. We find from the testimony of Gov. Purdy, and from the books of account kept at the State Prison, and from other sources that the greater portion of this claim is for moneys actually advanced from the pocket of the memorialist. We deem this claim to be extremely just, and trust that the Senate will take action upon it at once.

W. C. BURNETT,  
 HENRY M. FISKE,  
 Of the Committee.

Report accepted, and placed on calendar.

Mr. Fiske made the following report.

*Mr. President:*

The Committee on Claims, to whom was referred the claim of G. McGee and Mr. Flavety against the State, for the sum of \$797, for freight and passages from San Francisco to the State Prison, would report that they have examined the same, and find by the Prison books, as well as the sworn testimony of J. S. Love, Warden of the Prison, that the sum of \$335 is due from the State, and recommend that the same be audited and allowed by this Legislature, and placed on the same footing as all other indebtedness of the State accruing prior to January 1, 1857.

HENRY M. FISKE,  
 W. C. BURNETT,  
 Of the Committee.

Report accepted and placed on calendar.

Also the following:

*Mr. President :*

The Committee on Claims, to whom was referred the claim of William Clark against the State, for the sum of \$590, for freight and passages from San Francisco to the States' Prison, have had the same under consideration, and after examining the Prison Books, and hearing the testimony of J. S. Love, warden of said Prison on the subject, find there is due to said Clark from the State, the sum of \$200, which sum your committee would recommend be audited and allowed him by this Legislature, and placed on the same footing as the other indebtedness of the State, accruing prior to the first of January 1857.

HENRY M. FISKE,  
W. C. BURNETT,  
Of Committee.

Report accepted and placed on calendar.

Mr. Woodworth made the following report:

*Mr. President :*

The Special Committee consisting of the San Francisco Delegation, to whom was referred Assembly bill No. 360, entitled "An Act supplemental to an Act to provide for Funding the Legal and Equitable Debt of the City of San Francisco, and for the final redemption of the same," passed May 7, 1855, have carefully examined the same, and beg leave to present the accompanying substitute, and recommend its passage.

F. A. WOODWORTH,  
WM. J. SHAW,  
E. L. SULLIVAN.

Report accepted, and with bill and substitute placed on calendar.

Mr. Waite, of the Committee on Public Expenditures, presented an Act making appropriations for the support of the Civil Government of the State, for the ninth fiscal year, commencing on the first day of July, A. D. 1857, and ending on the thirtieth day of June, A. D. 1858, inclusive, which was read first and second times, and referred to the Committee of the Whole, for 12 o'clock, M., on to-morrow.

Also, an Act making appropriations for the support of the Civil Government of the State, for the remainder of the eighth fiscal year, commencing on the first day of February, A. D. 1857, and ending on the thirtieth day of June, A. D. 1857, inclusive, which was read first and second times, and made the special order for to-morrow at 12 o'clock, in Committee of the Whole.

On motion of Mr. Cosby, Assembly bill No. 318, "An Act to Fund the Debt of the County of Siskiyou," was taken from the calendar, and referred to the Delegation from Siskiyou.

The hour having arrived for the consideration of the special order of the day, Senate bill No. 233, "An Act to reduce and fix the per diem of Members, Officers, and Employees of the Legislature, and other employees of the Government," was taken up, and on motion of Mr. Mandeville, laid on the table.

The following message was received from the Assembly:

*Mr. President :*

I am directed to inform the Senate that the Assembly on yesterday passed the following Senate bills:



Senate Bill No. 176, an Act supplementary and amendatory of an Act to authorize the formation of Corporations for the construction of Plank and Turnpike Roads, passed May 12, 1853.

Also, Senate Bill No. 204, an Act amendatory of and supplementary to an Act to incorporate the city of Sacramento.

Also, Senate Joint Resolution No. 3, asking Congress to provide for recording township lines in the mineral laws of this State, and for locating school lands in certain cases.

Also, have amended and passed Senate Bill No. 202, an Act to provide for paying certain Equitable Claims against the State of California and to contract a funded debt for that purpose, and respectfully ask the concurrence of the Senate in amendments.

Also, passed Assembly Bill No. 67, an Act to provide for the sale of the 16th and 36th sections of land donated to the State for school purposes by act of Congress.

Also, Concurrent Resolution relative to a certain enrolled bill.

Also, Assembly Bill No. 247, an Act for the relief of James Allen, State Printer.

Also, Assembly Bill No. 418, an Act to amend section five of an Act concerning the office of Surveyor General.

Also, Assembly Bill No. 417, an Act concerning Legal Publications.

April 21st, 1857.

W. CAMPBELL,  
Clerk Assembly.

Senate Bill No. 202, with Assembly amendments, was considered.

Mr. Shaw moved to lay the bill on the table, which was lost.

Mr. Shaw then moved to refer the bill to the Special Committee of five by whom the same was introduced.

Mr. Bell moved to refer the bill to the Committee on Public Expenditures, which was lost.

The question recurring on the motion of Mr. Shaw, was put and carried.

On motion of Mr. Norman, the committee were instructed to report to-morrow, 23d inst.

Assembly Bill No. 67 was read first and second times and referred to the Committee on Public Lands.

Assembly concurrent resolution relative to a certain enrolled bill was adopted.

Assembly Bill No. 247 was read first and second times and referred to the Committee on Claims.

On motion, the committee were instructed to report to-morrow.

Assembly Bill No. 418 was read first and second times.

On motion of Mr. Ashley, the rules were further suspended, bill read a third time and passed.

Assembly Bill No. 417, was read first and second times, and on motion, placed on calendar.

Mr. Burnett introduced an Act to authorize the auditing and allowing of certain Claims against the State of California, which was read first and second times and referred to the Judiciary Committee.

Mr. Waite introduced "An Act to repeal the 35th section of an Act, concerning the organization of the Militia, passed April 25th, 1855, amended by an Act approved April 10th, 1856," which was read first and second times, and referred to the Committee on Military Affairs.

Mr. Sullivan introduced "An Act to restrict the jurisdiction of Justices of the Peace, in and for the City and County of San Francisco," which was read first and second times, and referred to the Judiciary Committee."

Mr. Waite introduced "An Act to supply the City of Nevada with Water, and protect the City against Fires," which was read first and second times, and referred to the Delegation from Nevada.

Mr. Westmoreland offered the following resolution, which was adopted:

*Resolved*, That the San Francisco Delegation be, and are hereby instructed and required to report back to the Senate, the bill referred to them concerning the payment of the Keepers of the Prison of San Francisco.

Mr. Norman introduced the following additional rule:

**RULE 45.** All points of order shall be decided without debate, and all appeals from the decision of the Chair shall be decided without debate.

Mr. Norman moved that the rules be suspended, and the additional rule considered.

Lost; and so the rule lies over one day.

Mr. Burnett offered the following resolution:

*Resolved*, By the Senate, the Assembly concurring, that the Chairman of the Senate Committee on Enrolled Bills, be instructed to strike the words "approved April," out of the title to Senate bill No. 203, and insert the words "passed April 11," in their stead.

Mr. Mandeville moved its indefinite postponement.

Lost.

The question being on the adoption of the resolution, was put, and resolution adopted.

Mr. Melony made the following report:

*To the Senate and Assembly:*

The Committee of Free Conference on Assembly bill No. 236, "concerning

Fees in certain Counties," have consulted, and recommend that the Senate recede from its amendments, with the exception of that which relates to counties of Tulare and Fresno.

A. R. MELONY,  
S. A. MERRITT,  
J. G. COSBY,  
Senate Committee.  
C. S. RICKS,  
STEVENSON,  
EDWARDS,  
Assembly Committee.

On motion of Mr. Merritt, the report was adopted.

Mr. De La Guerra offered the following resolution:

*Resolved*, By the Senate, the Assembly concurring, that a committee of three be appointed from each House, who shall have power to designate what laws shall be published in the Spanish language of the present session of the Legislature.

Adopted.

Mr. De La Guerra offered the following resolutions:

*Resolved*, by the Senate, the Assembly concurring. That the State Translator is hereby employed and directed to examine the proof-sheets of laws of the session of 1856, selected and ordered to be printed in the Spanish language, and the Secretary of State is hereby directed to pay for the same out of the fund appropriated for the translation of the laws of 1857.

*Resolved*, That the Secretary of State be directed to have the translated laws of 1856 and 1857, selected and ordered to be printed in the Spanish language, bound in one volume.

Adopted.

Mr. Dosh moved to take up the Stamp Tax Bill.

Lost.

#### GENERAL FILE.

Senate Bill No. 189 an Act to authorize the sale of certain Real Estate by Guardians, was read a third time and passed.

Senate Bill No. 4, an Act for the better protection of Mining Interests, was read a third time.

Mr. Norman moved a call of the Senate.

Lost.

Mr. Dosh moved to lay the bill on the table.

Lost.

Question on the final passage of the bill, the ayes and noes were demanded by Messrs. Soule, Fiske and Westmoreland, and taken with the following result:

#### AYES.

Messrs. Ashley, Cosby, De la Guerra, Fiske, Goodwin, Johnson of El Dorado, McCallum, Soule and Taliaferro—9.

## NOES.

Messrs. Bell, Burnett, Bynum, Dosh, Ferguson of Sierra, McGee, Melony, Merritt, Norman and Westmoreland.—11.

Messrs. Coffroth, Mesick, Shaw, Sullivan and Woodworth declined voting.

So the Senate refused to pass the bill.

Senate Bill No. 171, an Act amendatory of and supplementary to an Act in relation to Personal Mortgages in certain cases, passed May 11th, A. D. 1853, was read a third time and passed.

Assembly Bill No. 385, an Act to repeal an Act entitled an Act amendatory of an Act entitled an Act concerning County Judges, passed April 4th, 1854, and also an Act which was passed April 30th, 1855, amendatory of the above recited act, approved April 18th, 1856.

Mr. Ashley moved to strike out the 1st section of the bill, which was carried, and the bill was read third time and passed.

On motion, the title was so amended as to read, "an Act concerning the County Judge of Plumas County."

Senate Bill No. 186, an Act to authorize the Executors of Joseph L. Folsom, deceased, to sell real estate of their Testator at private sale, with the amendments reported by Judiciary Committee, April 4th.

Mr. Johnson moved to lay the bill on the table, which was lost.

The bill and amendments considered in Committee of the Whole, Mr. Bell in the chair.

After some time spent in considering the bill, the committee rose and reported the bill back to the Senate with amendments.

In Senate.—Amendments adopted in Committee of the Whole concurred in.

Mr. Coffroth moved that the bill be engrossed and read third time.

Mr. Norman moved to indefinitely postpone the bill.

Mr. McCallum moved the previous question, which was sustained.

Question, "Shall the main question be now put?" was put and carried.

The main question, being on the motion to indefinitely postpone the bill, was put and lost.

Question recurring, "Shall the bill be ordered engrossed and read a third time?" was put and carried.

Mr. Burnett moved to reconsider the vote by which the Senate, on to-day, refused to pass Senate Bill No. 4, an Act for the better protection of Mining In-

Westmoreland moved to indefinitely postpone the motion to reconsider



Mr. McCallum moved the previous question, which was sustained.

Question, "Shall the main question be now put?" was put and carried.

The main question, being the indefinite postponement of the motion to reconsider the vote, the ayes and noes were demanded by Messrs. Norman, Melony and Burnett, and taken with the following result:

AYES.

Messrs. Bell, Bynum, Dosh, Ferguson of Sierra, Johnson of Sacramento, McGee, Melony, Merritt, Norman and Walkup—10.

NOES.

Messrs. Ashley, Burnett, Carpenter, Chase, Cosby, Crandall, Fiske, Goodwin, Johnson of El Dorado, McCallum, Mesick, Soule, Sullivan, Taliaferro and Tilford—15.

Mr. Wilson declined voting.

So the motion to indefinitely postpone the motion to reconsider, was lost.

Question recurring on the motion to reconsider, was put and carried.

The Chair announced that the question before the Senate would be the final passage of the bill.

Mr. Norman rose to a point of order: That the operation of the previous question did not reach to the passage of the bill.

The Chair ruled the point of order well taken.

From which ruling, Mr. McCallum appealed, and the ayes and noes were demanded by Messrs. McCallum, Burnett, and Johnson of Sacramento, and taken with the following result:

AYES.

Messrs. Bell, Bynum, Ferguson of Sierra, McGee, Melony, Merritt, Norman, and Westmoreland—8.

NOES.

Messrs. Ashley, Burnett, Carpenter, Chase, Cosby, Crandall, Dosh, Fiske, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, Mesick, Shaw, Soule, Sullivan, Taliaferro, and Waite—19.

Mr. Woodworth declined voting.

So the ruling of the Chair was not sustained.

Question on final passage of the bill, the ayes and noes were demanded by Messrs. Dosh, Westmoreland, and Merritt, and taken with the following result:

AYES.

Messrs. Ashley, Burnett, Carpenter, Cosby, Crandall, Fiske, Goodwin, Johnson of El Dorado, McCallum, McGee, Shaw, Soule, Taliaferro, Waite, and Westmoreland—15.

## NOES.

Messrs. Bell, Bynum, Dosh, Ferguson of Sierra, Johnson of Sacramento, Mandeville, Melony, Merritt, and Norman—9.

Messrs. Mesick, Sullivan, and Woodworth, declined voting.

So the bill passed.

Mr. Westmoreland gave notice that on to-morrow he would move a reconsideration of the vote by which the bill passed.

Mr. Ashley moved to reconsider the vote now.

The Chair ruled the latter motion out of order.

Mr. McCallum appealed from the ruling of the Chair.

After much discussion and several points of order raised, and no definite action being had thereon, Mr. Burnett moved to adjourn, upon which the ayes and noes were demanded by Messrs. Coffroth, Soule and Taliaferro, and taken with the following result:

## AYES.

Messrs. Burnett, Bynum, Dosh, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Mandeville, McGee, Melony, Merritt, Norman and Westmoreland—13.

## NOES.

Messrs. Ashley, Bell, Carpenter, Coffroth, Cosby, Crandall, Johnson of El Dorado, McCallum, Soule, Taliaferro, Waite and Woodworth—12.

Mr. Shaw declined voting.

So the Senate adjourned.

Approved April 23d, 1857.

R. M. ANDERSON,  
President of the Senate.

Attest:

GEO. S. EVANS, Secretary Senate.

## IN SENATE.

THURSDAY, April 23, 1857.

Senate met pursuant to adjournment.

The President in the chair.

Roll called.

Journals of yesterday read and approved.

Mr. Ashley, Chairman of the Judiciary Committee, made the following report:

*Mr. President :*

The Committee, on the State Debt bill, recommend that the Assembly amendments be concurred in, except the part of the amendment marked (\*) to section 7, and as to this amendment recommend that the words "at the State Capitol" be inserted in the 9th line after Controller, and not in the 8th line, and change "publication," in the 8th line, to "publications."

D. R. ASHLEY,  
Chairman.

Report accepted, and amendments adopted.

Mr. Coffroth in the Chair.

The Chair announced as the committee on the part of the Senate on concurrent resolution relative to the designation of which laws should be published in Spanish, adopted yesterday, Messrs. De La Guerra, Ashley and Merritt.

Mr. Johnson of Sacramento, Chairman of the Finance Committee, made the following report:

*Mr. President :*

Your committee, to whom was referred Assembly bill No 306, an Act to amend the first section of an Act concerning Passengers arriving in ports of the State of California, passed May 3d, 1852, and which was amended by an Act approved April 2d, 1853, have had the same under consideration, and have instructed me to report the bill back without amendment, recommending its passage

JOSIAH JOHNSON.

Report accepted, and with bill placed on calendar.

Mr. McCallum moved to reconsider the vote by which the Senate, on yesterday, passed Senate bill No. 4, an Act for the better protection of Mining Interests.

Mr. Mandeville moved a call of the Senate, which was lost.

Mr. McCallum moved the previous question, which was sustained.

Question—Shall the main question be now put? was put and carried.

The main question being the motion of Mr. McCallum to reconsider the vote on the passage of Senate bill No. 4, the ayes and noes were demanded by Messrs. Mandeville, Cosby and Westmoreland, and taken with the following result:

AYES.

Messrs. Bell, Bynum, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Johnson of Sacramento, Mandeville, McGee, Melony, Merritt, Walkup and Westmoreland—12.

NOES.

Messrs. Ashley, Burnett, Carpenter, Chase, Cosby, Crandall, De La Guerra, Fiske, Goodwin, Johnson of El Dorado, McCallum, Shaw, Soule, Taliaferro and Waite—15.

Messrs. Coffroth and Woodworth declined voting.

So the Senate refused to reconsider.

Mr. Coffroth made the following report:

Mr. President,

The Committee on Public Lands, to whom was referred Assembly Bill No. 344, an Act to provide for sale of the Swamp and Overflowed Lands belonging to the State, have had the same under consideration, and recommend the adoption of the following amendments thereto:

J. W. COFFROTH, Chairman

Amendments.

Section 1, line 10, after word "Act" insert "when it shall be necessary to do so."

Section 1, line 10, strike out words "and land," and insert "the other swamp land."

Section 1, line 6, after "Act" insert "in making the provisions of the Act, passed April 25, 1850, entitled an Act to provide for the sale of the swamp and overflowed lands belonging to this State, which were then and ought to be purchased and sold as well as it now."

Section 2, line 1, strike out word "shall."

Section 2, line 3, after word "proceed" insert "either then or when it shall be necessary."

Section 1, line 9, after word "wherein" strike out down to "and" in line 13.

Section 2, line 10, after word "wherein" strike out down to "passed" in line 14.

Section 2, strike out all after line 5, and insert "the following sections of said Act" including everything in the proviso of the United States, where the same may be applicable."

Section 2, line 5, after word "wherein" insert "as now in force."

Section 10, in line 4, strike out "Summary of same" and insert "Transfer of same, with the record that the said survey was" [the Survey] passed by the parliament by the Governor of this State, where the land is located, shall have been filed in the office."

Section 10, line 4, after word "passed" insert word "hereafter." Same line after "purchase" [the land] shall be in the people's hands." Lines 5 and 6, strike out words "or purchase" purchasing the same." Line 10, strike out all after word "hereafter."

Insert an additional sentence in the paragraph section 14.

Sec. 14. Any person who may have purchased overflowed and swamp lands under the provisions of the Act, entitled an Act to provide for the sale of overflowed and swamp lands, belonging to this State, passed on the 25th April, 1850, as an act to purchase and provide money for said act, having purchased on the credit, provided for by said Act, by which six months after the passage of this Act the same Committee of the State, or of the County, Treasurer, or any one of them, or collector of the nearest revenue fund, had what have been the said amounts of the purchase money to cash, shall be entitled to receive a receipt for such land from the Surveyor General, or any person authorized by this Act, according to such receipt, location, and acreage of same. In the receipt payable by cash paid, and if any person before the passage of this Act shall have purchased the said lands, required for the purchase of said lands, he shall pay the purchase money in full, and the purchase of said lands shall be considered as if it had been made after the passage of this Act. It is further enacted, that the Governor shall be authorized to effect the release of said persons.

Report approved, and with bill and amendments, made the special order for 10 o'clock this day, pursuant to resolution adopted on the 14th inst.

Mr. Coffroth made a verbal report on Assembly Bill No. 413, an Act to change



and fix the time of holding the Courts of Sessions in the county of Sutter, and recommended its passage, without amendments.

Report accepted, and on motion the rules were suspended, the bill considered, read a third time, and passed.

**Mr. Cosby made the following report :**

*Mr. Speaker:*

Your Committee, to whom was referred Assembly Bill No. 318, entitled an Act to fund the debt of the county of Siskiyou, with special instructions, have made the amendments instructed, and beg leave to report the same back.

**JOHN D. COSBY, Committee.**

Section 2. In 6th line, after the words "day of," strike out "June" and insert "January."

In 7th line, after the word "fifty" strike out "seven" and insert "eight."

In line 17, after the word "January" strike out "next" and insert "A. D. 1859."

In line 24, after the word "sixty" strike out "eight" and insert "nine."

Section 6. In line 3d, after the words "day of" strike out "June" and insert "January."

In line 4, after the word "fifty" strike out "seven" and insert "eight."

In line 9, after the word "of" strike out "June" and insert "January."

In line 10, after word "fifty" strike out "seven" and insert "eight."

In 24th line, after the word "of" strike out "June" and insert "January."

In 25th line, after the word "fifty" strike out "seven" and insert "eight."

Sec. 8. In 2d line, after the word "shall" strike out the words "this year" and insert the year "A. D. 1858."

Sec. 10. In 8th line, after the words "day of" strike out "June" and insert "January."

In 9th line, after the word "fifty" strike out "seven" and insert "nine."

Section 14th, line 1, after the words "day of" strike out "June" and insert "January."

Line 2d, after words "fifty" strike out the words "seven" and insert "eight."

Section 15, line "1" after the words "any of" strike out "June" and insert "January."

Line 2d, after the words "fifty" strike out "seven" and insert "eight."

Line 8, strike out the word "June" and insert "January."

On motion the rules were suspended, amendments adopted, bill read third time, and passed.

**Mr. Ashley made the following report :**

*Mr. President:*

The Judiciary Committee, to whom was referred an Act to restrict the jurisdiction of Justices of the Peace in and for the city of San Francisco, report that they have considered the same, and recommend its passage.

**D. R. ASHLEY,**  
Chairman.

Report received and bill placed on calendar.

**Mr. Crandall made the following report :**

*Mr. President :*

The Committee on Enrolled Bills, have examined Senate bill No. 140, an Act to pay E. H. Burns for services rendered in the suppression of Indian Hostilities in the county of Klamath, in this State.

Also, Senate bill No. 223, an Act concerning County Warrants.

Also, bill No. 225, an Act to adjust the amount of indebtedness of the county of Napa to the county of Solano, and to provide for the payment thereof.

Also, bill No. 227, an Act to authorize the Board of Supervisors of Marin county to pay the current expenses of said county.

Also, concurrent resolution instructing the District Attorneys to bring suit against certain County Treasurers and Sheriffs, and find the same correctly enrolled.

D. CRANDALL, Chairman.

The following messages were received from the Governor:

STATE OF CALIFORNIA, EXECUTIVE DEPARTMENT, }  
Sacramento, April 22d, 1857. }

*To the Senate of California :*

I have this day approved an Act making a grant for a Wharf at Monterey, and providing for the same.

Also, an Act to authorize the Board of Supervisors of Nevada county to levy a special tax for certain purposes.

J. NEELY JOHNSON.

STATE OF CALIFORNIA, EXECUTIVE DEPARTMENT, }  
Sacramento, April 21st, 1857. }

*To the Senate of California :*

I have this day approved an Act to authorize Charles J. Collins, his associates and assigns to build a Wharf at or near Point Colberg, in Solano county.

J. NEELY JOHNSON.

STATE OF CALIFORNIA, EXECUTIVE DEPARTMENT, }  
Sacramento, April 22d, 1857. }

*To the Senate of California :*

An Act authorizing Francisco De La Guerra and others, to build and construct a Turnpike or Gravel Road from the Rancho of Sini, in the county of Santa Barbara, to the plain of San Fernando, in the county of Los Angeles, is returned to the branch of the Legislative department in which the same originated, without approval.

It is a cause of much regret that the sense of duty should again compel me to withhold approval from an Act of similar character, and involving like unconstitutional features, as those previously referred to in my messages of March 27th and the 17th day of the present month. From the similarity of these Acts, (more especially the one entitled an Act to grant the right to construct a Turnpike Road between the town of Columbia and city of Sonora, in the county of Tuolumne, in returning which, I took occasion to present to your honorable body the reasons why the same had not been approved,) I do not regard it necessary to repeat the grounds of those objections, but would most respectfully commend to your consideration the suggestions therein made, as alike applicable to the present Act. Similar views have, during the present session of the Legislature, been presented to the Assembly, and seem to have so far met their approbation as to have been sustained by a decided vote.

I would furthermore suggest that no provision has been made in this Act for organizing under the corporate laws of the State, but it in fact does, by special authority create a corporation, and in that is in positive violation of that feature of the Constitution which prohibits the Legislature from passing any Act of a corporate nature unless for municipal purposes.

As suggested in former messages, the general corporate laws of this State afford ample authority for the construction of works of like character with the one proposed, from whence we can readily infer that no inconvenience can result either to the parties proposing the expenditure of the necessary capital, or withhold from the people of that section of the State the unquestionable advantages they would derive from its construction.

**J. NEELY JOHNSON.**

On motion of Mr. Bell, the veto message was laid on the table.

The following message was received from the Assembly :

*Mr. President :*

The Assembly have this day passed Assembly Bill No. 429, an Act amendatory of an Act entitled an Act to provide for the disposal of the five hundred thousand acres of land granted to this State by Act of Congress.

April 22, 1857.

**J. W. SCOBEX,**  
Assistant Clerk.

Assembly Bill No. 429 was read first and second times, and referred to the Committee on Public Lands.

The following message was received from the Assembly :

*Mr. President :*

I am directed to inform the Senate that the Assembly on yesterday passed the following Assembly Bills :

No. 419, an Act to authorize the Superintendent of Common Schools for the county of Placer to teach school.

No. 428, an Act amendatory and explanatory of an Act entitled an Act to authorize the Treasurer of State to issue certain Interest Coupons, approved April 11, 1857.

The Assembly has adopted report of Committee of Free Conference on Assembly Bill No. 236, concerning fees in certain counties.

Also, passed Assembly Bill No. 426, an Act to amend an Act entitled an Act to amend an Act supplementary to an Act entitled an Act to incorporate the city of Sacramento, passed March, 1851, approved March 31, 1855.

Also, Assembly Bill No. 410, an Act to amend an Act entitled an Act concerning the Courts of Justice of this State and Judicial officers, approved March 19th, 1853.

**W. CAMPBELL,**  
Clerk of Assembly.

April 23, 1857.

Assembly Bill No. 419 was read first and second times, and referred to the Delegation from Placer.

Assembly Bill No. 428 was read first and second times, and placed on calendar.

Assembly Bill No. 426 was read first and second times, and referred to the Sacramento Delegation.

Assembly Bill No. 410 was read first and second times, and referred to the Delegation from Placer.

Mr. Melony introduced an Act to amend an Act entitled an Act to repeal the several charters of the city of San Francisco, to establish the boundaries of the city and county of San Francisco, and to consolidate the government thereof, approved April 19, 1856.

Read first and second times, and referred to the Delegation from San Francisco.

Mr. Melony moved that the Committee be instructed to report on Saturday next.  
Lost.

Mr. Bynum introduced an Act supplementary to an Act entitled an Act to authorize William Moody and Morgan Hart to build a wharf in the county of Solano, approved May 3d, 1852.

Read first and second times, rules further suspended, bill considered engrossed, read a third time and passed.

The hour having arrived for the consideration of the special order of the day, Senate Bill No. 235, an Act making appropriations for the support of the civil government of the State for the remainder of the eighth fiscal year, commencing on the first day of February, A. D. 1857, and ending on the 30th day of June, A. D. 1857, inclusive, it was considered in Committee of the Whole, and reported back to the Senate, with an amendment.

In Senate.—Amendment adopted, rules suspended, bill considered engrossed, read a third time and passed.

On motion, Senate bill No. 235, an Act making appropriations for the support of the Civil Government of the State for the ninth fiscal year, commencing on the 1st day of July, A. D. 1857, and ending on the 30th day of June, A. D. 1858, inclusive, was taken up, considered in Committee of the Whole, and reported back to the Senate with amendments.

In Senate.—Amendments of Committee adopted with the exception of those relating to the appropriation of \$15,000 to Sisters of Charity, and \$1,500 to Peg Leg Smith.

Mr. Merritt moved to adopt the amendment relative to the Sisters of Mercy, of San Francisco.

Mr. Westmoreland moved a call of the Senate, which was sustained.

Absent members having returned to the Senate, further proceedings under the call were suspended.

After much discussion, Mr. Dosh moved a call of the Senate, which was sustained.

Members returning, further proceedings under the call were suspended.

The question being on the adoption of the amendment appropriating \$15,000 for the payment of claims of the Sisters of Mercy, of San Francisco, the ayes and



noes were demanded by Messrs. Merritt, Soule and Walkup, and taken with the following result:

AYES.

Messrs. Ashley, Bell, Bynum, Coffroth, De La Guerra, Ferguson of Sacramento, Johnson of Sacramento, Mandeville, Melony, Merritt, Mesick, Taliaferro, Westmoreland and Woodworth—14.

NOES.

Messrs. Carpenter, Chase, Crandall, Dosh, Ferguson of Sierra, Fiske, Goodwin, Johnson of El Dorado, McCallum, McGee, Norman, Soule, Waite, Walkup and Mr. President—15.

Mr. Shaw declined voting.

So the amendment was rejected.

The question being on the adoption of the amendment appropriating \$1,500 for Peg Leg Smith, the ayes and noes were demanded by Messrs. Merritt, Walkup and Melony, and taken with the following result:

AYES.

Messrs. Bynum, Ferguson of Sacramento, Melony, Taliaferro and Woodworth—5.

NOES.

Messrs. Ashley, Bell, Carpenter, Chase, Crandall, De La Guerra, Dosh, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, Merritt, Mesick, Norman, Shaw, Soule, Waite, Walkup and Westmoreland—22.

So the amendment was rejected.

Mr. Dosh moved to reconsider the vote by which the Senate struck out the sum of \$4,000 for the payment of an official report for the Supreme Court. Lost.

Mr. Mesick offered the following amendment to the bill:

Add to section 11 the words: "For the support of Common Schools in this State, the sum of \$32,960 40, one half thereof to be distributed semi-annually, as provided by law for the distribution of School moneys, being the same amount due from the State to the School Fund, for interest on receipts from the sale of School Lands.

Adopted.

Mr. Fiske moved to strike out \$5,000 for rent of Supreme Court room, and insert \$3,000.

A division of the question being called for the question was taken on striking out \$5,000, which was carried.

The question being, shall \$3,000 be inserted, Mr. Melony moved to amend by inserting \$2,500, which was adopted, and \$2,500 inserted.

Mr. Merritt moved to strike out \$600 for the Contingent Fund of the Librarian, which was carried.

Mr. Melony moved to reconsider the vote by which the Senate struck from the bill the sum of \$2,400 for a Draughtsman, which was carried.

Mr. Merritt moved to amend by inserting \$1,200, which was adopted.

The question being on the adoption of the section as amended was put and carried.

On motion of Mr. Goodwin the rules were suspended, bill considered engrossed, read a third time and passed.

Mr. Melony, Chairman of the Committee on Engrossed Bills, made the following report :

*Mr. President :*

The Committee on Engrossed Bills have examined, and found correctly engrossed Senate Bill No. 186, entitled an Act to authorize the Executors of Joseph L. Folsom, deceased, to sell real estate of their testator at private sale.

A. R. MELONY,  
Chairman.

April 23d, 1857.

Mr. Crandall, Chairman of the Committee on Enrollment made the following report :

*Mr. President:*

Your Committee on Enrollment have this day presented to the Governor, for his approval, Senate Bill No. 140, an Act to pay E. H. Burns for services rendered in the suppression of Indian hostilities in the county of Klamath.

Also, Senate Bill No. 223, an Act concerning county warrants

Also, Bill No. 225, an Act to adjust the amount of indebtedness of the county of Napa to the county of Solano, and to provide for the payment thereof.

Also, Bill No. 227, an Act to authorize the Board of Supervisors of Marin county to pay the current expenses of said county.

Also, concurrent resolution, instructing the District Attorneys to bring suit against certain County Treasurers and Sheriffs.

D. CRANDALL.

On motion of Mr. Melony, Senate Bill No. 186, an Act to authorize the Executors of Joseph L. Folsom, deceased, to sell real estate of their testator at private sale, was taken up, read a third time and passed.

On motion of Mr. Melony Assembly Bill No. 316, an act to provide for the sale of the swamp and overflowed lands belonging to this State, special order for this day, was made the special order for to-morrow, the 24th inst., at 12 o'clock.

Mr. Melony moved to take up the Stamp Tax Bill.

Lost.

Mr. McCallum moved to take from the table Senate Bill No. 233, an Act to reduce and fix the per diem of members, officers and employees of the government, and make the same the special order for to-morrow, the 24th inst., at 2 o'clock.

A division of the question being called for, the question was taken on taking up, and the ayes and noes demanded by Messrs McCallum, Soule and Fiske, and taken with the following result :

AYES.

Messrs. Ashley, Burnett, Carpenter, Coffroth, De La Guerra, Dosh, Fiske, Goodwin, McCallum, Mesick, Shaw, Soule, Sullivan, Waite, Walkup, Woodworth  
— 16.

## NOES.

Messrs. Bell, Bynum, Chase, Crandall, Ferguson of Sacramento, Johnson of Sacramento, Johnson of El Dorado, Mandeville, Melony, Merritt, Norman, Taliaferro, Westmoreland—13.

So the bill was taken up.

Mr. McCallum then withdrew his motion to make the bill the special order, and moved to consider the bill now.

Mr. Mandeville moved to recommit the bill to the Committee on Claims, with instructions to so amend the bill as to fix the pay of members of the Legislature at a sum not exceeding \$150 a year.

Mr. Melony moved to lay the motion to refer on the table, upon which the ayes and noes were demanded by Messrs. McCallum, Fiske and Bell.

After debate, Mr. Ashley moved the previous question, which was sustained.

Question—Shall the main question be now put? was put and carried.

The main question, being the motion to lay the motion to refer on the table, the ayes and noes were taken with the following result:

## AYES.

Messrs. Bell, Bynum, Chase, Crandall, Ferguson of Sacramento, Johnson of Sacramento, Johnson of El Dorado, Mr. Mandeville, Melony, Merritt and Taliaferro—11.

## NOES.

Messrs. Ashley, Burnett, Carpenter, Coffroth, De La Guerra, Dosh, Fiske, Goodwin, McCallum, Mesick, Norman, Shaw, Soule, Sullivan, Waite, Walkup, Westmoreland and Woodworth—18.

So the motion was lost.

The question recurring on Mr. Mandeville's motion to refer with special instructions, the ayes and noes were demanded by Messrs. Mandeville, Taliaferro and Johnson of El Dorado, and taken with the following result:

## AYES.

Messrs. Bell, Bynum, Chase, Ferguson of Sacramento, Johnson of El Dorado, Mandeville, Melony, Merritt, Mesick, Taliaferro and Westmoreland—11.

## NOES.

Messrs. Ashley, Burnett, Carpenter, Coffroth, Crandall, De La Guerra, Dosh, Fiske, Goodwin, Johnson of Sacramento, McCallum, Norman, Shaw, Soule, Sullivan, Waite, Walkup and Woodworth—18.

So the motion to refer was lost.

The bill was then ordered engrossed, and read a third time.

Mr. Shaw, Chairman of the Committee on Commerce and Navigation, by leave, made the following report:

*Mr. President:*

The Committee on Commerce and Navigation, to whom was referred Assembly bill No. 374, an Act to grant the right to construct a Bridge across the American river, &c., report that they have considered the same, and recommend its passage, provided the following amendments be adopted. But if such amendments be not adopted, then they recommend that said bill be indefinitely postponed.

WM. J. SHAW.

Strike out section 7 and insert in its place the following:

Section 7. Whenever, in the opinion of the Board of Supervisors of Sacramento county, sufficient means shall be raised to construct a free bridge over the American river, at or near its mouth, it shall be the duty of the said Board of Supervisors, and they are hereby required to grant the right of way therefor, to such persons, and under such rules and regulations as the said Board may deem necessary to prevent obstructions to navigation, and insure the most proper and expeditious construction of such bridge, which when completed shall become, and forever remain, a free bridge. And any person or persons may establish free ferries at any place or places on the said American river, within one mile of its mouth; and it shall be unlawful for any persons, associations or companies to interfere with the rights hereby granted, so long as such ferries or bridge shall be and remain free for all persons crossing, or desiring to cross said river, under such regulations as may be established by said Board of Supervisors.

Report accepted.

Mr. Ferguson of Sacramento moved to make the bill the special order for to-morrow at 2 o'clock, which was lost, and the bill, with report and amendments, was placed on the calendar.

Mr. McCallum offered the following resolution:

*Resolved*, That all committees be instructed to report all bills on or before to-morrow.

The ayes and noes were demanded by Messrs. McCallum, Carpenter and Melony, and taken with the following result:

AYES.

Messrs. Bynum, Carpenter, De La Guerra, Dosh, Fiske, Johnson of Sacramento, McCallum, Melony, Taliaferro, Woodworth—10

NOES.

Messrs. Ashley, Bell, Burnett, Chase, Crandall, Ferguson of Sacramento, Goodwin, Johnson of El Dorado, Mandeville, McGee, Mesick, Norman, Shaw, Sullivan, Waite, Walkup, Westmoreland—17.

Mr. Merritt declined voting.

So the resolution was rejected.

Mr. Norman moved to take up the additional Standing Rule 45, offered by himself on yesterday.

Carried, and the rule adopted.



The following message was received from the Assembly :

*Mr. President :*

The Assembly on the 20th inst. passed the following Assembly Bills :

No. 416, an Act for the relief of H. A. Higby.

No. 422, an Act for the relief of Rivett & Co.

No. 326, an Act for the relief of James H. Hardy.

No. 424, an Act for the relief of M. Scott, jr.

No. 136, an Act for the relief of E. B. Carson, Sheriff of El Dorado county.

No. 423, an Act for the relief of W. B. Thornburgh, Sheriff of Yuba County.

No. 134, an Act for the relief of R. G. Crozier.

April 23, 1857.

J. W. SCOBEE,

Assistant Clerk.

Assembly Bill No. 416 was read first and second times, and referred to the Committee on Claims.

Assembly Bill No. 422 was read first and second times, and referred to the Committee on Claims.

Assembly Bill No. 136 was read first and second times, and referred to the Committee on Claims.

Assembly Bill No. 134 was read first and second times, and referred to the Committee on Claims.

Assembly Bill No. 423 was read first and second times, and referred to the Committee on Claims.

Assembly Bill No. 474 was read first and second times, and referred to the Committee on Claims.

Assembly Bill No. 326 was read first and second times, and referred to the Committee on Claims.

#### GENERAL FILE.

Assembly Bill No. 379, an Act authorizing the Treasurer of State to issue bonds for the payment of expenses incurred in the suppression of Indian hostilities in certain counties in this State, was taken up.

Mr. Merritt moved to lay the bill on the table ; which was lost.

The bill was then considered in Committee of the Whole, and reported back, with amendments.

In Senate, on motion of Mr. Norman, the bill was laid on the table.

Assembly Bill No. 398, an Act to amend an Act fixing the time of holding the several Courts, authorized to be held by the County Judge in the county of Alameda, passed March 10, 1854, was read a third time and passed.

Senate Bill No. 207, an Act to authorize the introduction of water into the city and county of San Francisco, with amendments of Committee, reported on the 15th inst., was taken up.

Mr. Merritt moved to indefinitely postpone the amendments.

Mr. Shaw moved that the bill and amendments be considered in Committee of the Whole.

Mr. Walkup rose to a point of order.

The Senate, by rule, was in Committee of the Whole.

The Chair ruled the point not well taken.

Mr. Walkup appealed from the decision of the Chair.

Question—Shall the decision of the Chair stand as the judgment of the Senate, was put, and the ruling sustained.

The question being on the motion of Mr. Shaw to consider the bill in the Committee of the Whole, was put and lost.

The question recurring on the motion of Mr. Merritt to indefinitely postpone the amendments, was put and lost.

The amendments reported by Committee were then considered in Senate and adopted.

Mr. Merritt moved to indefinitely postpone the bill.

Mr. Dosh moved the previous question, which was sustained.

Question—Shall the main question be now put, was put and carried.

The main question being the motion of Mr. Merritt to indefinitely postpone the bill, was put and lost.

The bill was then ordered engrossed, and read a third time.

Assembly Bill No. 362, an Act for the transfer of suits or actions pending in the Superior Court of the city of San Francisco to the District Court of the Twelfth Judicial District, in certain cases, was on motion of Mr. Shaw indefinitely postponed.

Assembly Bill No. 257, an Act authorizing the location and patenting of school lands, with amendments, reported from Committee on Education, on the 16th inst., was considered in Committee of the Whole, reported back, and the Committee had leave to sit again.

Mr. McCallum moved to make all bills relative to school lands the special order for 2 o'clock to-morrow.

Lost.

Mr. Melony moved that the Senate adjourn, which was lost.

Mr. Merritt moved to take a recess until half past 7 o'clock this evening, upon which the ayes and noes were demanded by Messrs. Merritt, Norman and Johnson of Sacramento, and taken with the following result:

AYES.

Messrs. Ashley, Carpenter, Goodwin, Johnson of Sacramento, Johnson of El Dorado, McCallum, Merritt, Norman, Soule, Sullivan and Talliaferro—11.

NOES.

Messrs. Bell, Coffroth, Crandall, De La Guerra, Dosh, Ferguson of Sacramento,

Mandeville, McGee, Melony, Mesick, Shaw, Waite, Walkup, Westmoreland and Woodworth—15.

So the Senate refused to take a recess.

Mr. Westmoreland moved to adjourn, which was put and lost.

Pending the action on Assembly bill No. 257, the following message from the Assembly was read:

*Mr. President:*

The Assembly have this day passed Senate bill No. 173, an Act to provide Revenue for the support of the Government of this State, with amendments as therein shown, and ask the concurrence of the Senate.

J. W. SCOBEE,  
Assistant Clerk.

April 23, 1857.

Senate bill No. 173, with amendments, reported from the Assembly, on motion, was referred together with the amendments, to the Committee on Finance, with instructions to report on to-morrow morning.

On motion of Mr. Mandeville, all the Relief Bills now on the calendar, or on the table, were taken up and referred to the Committee on Claims.

Mr. Walkup made the following report:

*Mr. President:*

The delegation from Placer, to whom was referred Assembly bill No. 419, report the same back to the Senate, and ask that it be passed with the amendments herewith presented.

JOS. WALKUP,  
C. WESTMORELAND.

Amend the title so as to read, "An Act to authorize the Superintendent of Common Schools of the counties of Placer, Sutter, Amador, and El Dorado, to teach school."

Strike out the word "county" in line 8th, and insert "counties."

Insert, at the end of line 8th, "Sutter, Amador and El Dorado."

Insert at the end of first section, "so far as the same relates to said counties of Placer, Sutter, Amador and El Dorado."

On motion, the rules were suspended and the bill considered, amendments of the Committee adopted, bill read third time and passed.

Mr. Tiliaferro moved to adjourn, which was lost.

The consideration of Assembly bill No. 257, was then resumed in Committee of the Whole.

After having spent some time in the consideration thereof, the committee rose, reported the bill back to the Senate, with amendments.

In Senate.—The amendments adopted in Committee of the Whole were concurred in, the bill read a third time and passed.

Mr. De La Guerra moved to adjourn, which was lost.

Mr. Norman moved to take a recess until 7½ o'clock this evening.

Mr. Chase moved to amend so as to adjourn until to-morrow at 9 o'clock, when on motion of Mr. Mandeville, the Senate adjourned.

Approved April 24th, 1857.

R. M. ANDERSON,  
President of the Senate.

Attest:

GEO. S. EVANS, Secretary Senate.

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## IN SENATE.

FRIDAY, April 24th, 1857.

Senate met pursuant to adjournment.

The President in the chair.

Roll called.

Journals of yesterday read and approved.

Mr. Johnson of Sacramento, made the following report:

*Mr. President :*

The undersigned delegation, representing the County of Sacramento, to whom was referred Assembly Bill No. 426, "An Act entitled an Act to amend, and supplemental to an Act entitled an Act to incorporate the City of Sacramento," passed March, 1851, approved March 31, 1855, have had the same under consideration, report the bill back without amendment, and recommend its passage.

JOSIAH JOHNSON.

Report accepted, and with bill placed on calendar.

Mr. Johnson of Sacramento, made a verbal report relative to Senate bill No. 173, "An Act to provide Revenue for the support of the Government of this State," recommending it for the consideration of the Senate.

Report accepted, and bill placed on calendar.

Mr. Fiske made the following report:

*Mr. President :*

The Committee on Claims, to whom was referred Assembly bill No. 326, "An Act for the relief of Jas. H. Hardy, have had the same under consideration, and beg leave to report it back to the Senate, and recommend its passage with the following amendments:

1st. Amend the title "An Act to audit certain Just and Equitable Claims existing against the State," strike out all after "1855," 4th line, section first, and insert the following:



The claim of Rivett & Co., for the sum of seven hundred and fifty-eight dollars, for services rendered, and materials furnished the Supreme Court of the State of California, in the year 1855.

The claim of H. A. Higley, for the sum of three thousand three hundred dollars, for surveying the boundary lines between the Counties of Alameda, San Joaquin, Santa Clara, and Contra Costa, during the years 1856 and 1857.

The claim of William G. Still, for the sum of fourteen hundred and forty-three dollars, for services rendered by him in surveying the boundary lines of Sierra County, in the year 1855.

The claim of Silas Wilcox, for the sum of four hundred and eight dollars, for services rendered in surveying the boundary lines between Stanislaus and Merced Counties, in the year 1856.

The claim of Wm. Mock, for the sum of four hundred and fifty-six dollars, for services rendered in surveying the boundary lines between the counties of Marin and Sonoma, in the year 1856.

The claim of S. H. Marlette, for cash expended for instruments, stationery, fuel, express, and other charges for Surveyor General's office, in the year 1855, amounting to three thousand three hundred and eighty-eight dollars.

The claim of Sherman Day, for two thousand six hundred dollars, for services as Assistant Surveyor General, in the year 1855.

The claim of George H. Goddard, for two thousand and nineteen dollars, for services in assisting the Surveyor-General in 1855.

The claim of Jesse Hackett, for three hundred and sixteen dollars, for services rendered Surveyor-General's office, as Porter, in the year 1855.

The claim of Thomas Tennent, for purchase, hire, and repair of instruments for Surveyor-General's office in the year 1855, for three hundred and forty-five dollars.

The claim of Nevett & Co., for a stove and fixtures for Surveyor-General's office for the year 1855, for fifty-nine dollars.

The claim of H. Koneman, for candles, etc., for Surveyor-General's office for the year 1855, seventy-one dollars.

The claim of Milton Farrel, for services in assisting the Surveyor-General in the year 1855, for one hundred and twenty dollars.

The claim of Silas Wilcox, for services in surveying the boundary line between the Counties of Tuolumne and Stanislaus in 1855, for four hundred and eighty-one dollars.

The claim of C. D. Semple, for surveying boundary line between Colusi and Yolo Counties in the year 1855, for four hundred and twenty-six dollars.

The claim of Thomas W. Wright, for surveying boundary line between the Counties of Santa Clara, Santa Cruz and San Francisco, in the year 1855, for one thousand five hundred dollars.

The claim of Thomas Early, Sheriff of Mariposa County, for transportation of prisoners to State Prison, prior to the passage of the Act approved April 21, 1856, for five hundred and ninety-seven dollars and twenty-five cents.

The claim of C. H. Randall, Deputy Sheriff of Tuolumne County, for transportation of prisoners to State Prison, prior to the Act approved April 21, 1856, for one hundred and seventeen dollars and fifty cents,—are hereby audited and allowed.

HENRY M. FISKE,  
Of the Committee.

April 23, 1857.

Report accepted and placed on the calendar.

On motion of Mr. Mandeville, Senate Bill No. 173, an Act to provide rev-

enne for the support of the Government of this State, with the Assembly amendments, was taken up and considered.

Assembly amendments were concurred in, except as to Sections 22, 26, 27, 32, 39, 46, 53, 54, 55, 56 and 60, which were acted upon as follows:

Assembly amendment to Sec. 22 was non-concurred in.

Amendment to Sec. 26 was non-concurred in.

Mr. Dosh moved to reconsider the vote by which the Senate refused to concur in Assembly amendment to Sec. 26; upon which the ayes and noes were demanded by Messrs. Costly, Goodwin and De La Guerra, and taken with the following result:

#### AYES.

Messrs. Ashley, Bell, Burnett, Chase, Coffey, Costly, De La Guerra, Goodwin, Johnson of El Dorado, Mackay, Masak, Norman, Soule, Sullivan, Tallaferra, Waite, Walkup and Woodworth—18.

#### NOES.

Messrs. Bynum, Carpenter, Dosh, Ferguson of Sacramento, Fiske, Johnson of Sacramento, McLaughlin, McGee, Melony, Merritt, Shaw and Westmoreland—12.

So the motion to reconsider prevailed.

Mr. Walkup moved to amend Assembly amendment to Sec. 26, by striking out the words "title to real estate," and insert "title to the land in third parties;" which was adopted.

The question being on concurring in the amendments of the Assembly striking out the last of Section 26 in the original bill, was put and lost.

Assembly amendments to Sections 27, 32, 39 and 45 were non-concurred in.

Mr. De La Guerra moved to reconsider the vote by which the Senate refused to concur in Assembly amendment to Section 45; which was carried.

Mr. Norman called the ayes and noes.

The Chair ruled that having announced that the motion was carried, after a division and count had been had, a call for the ayes and noes was not in order.

Mr. Norman appealed from the decision of the Chair, and read a clause of the Constitution to sustain his appeal.

Question, "Shall the decision of the Chair stand as the judgment of the Senate?" upon which the ayes and noes were demanded by Messrs. Melony, Norman and Dosh, and taken with the following result:

#### AYES.

Messrs. Ashley, Burnett, Bynum, Chase, De La Guerra, Ferguson of Sierra,

Fiske, Goodwin, Johnson of Sacramento, McCallum, Soule, Waite and Woodworth—13.

## NOES.

Messrs. Dosh, Ferguson of Sacramento, Johnson of El Dorado, Mandeville, Melony, Norman, Sullivan, Walkup and Westmoreland—9.

Mr. Coffroth declined voting.

So the decision of the Chair was sustained.

Mr. Walkup rose to a privileged question: He would enter a protest against the ruling of the Senate.

Mr. Johnson, of Sacramento, moved to amend the amendment by striking out the word "County Judge" and inserting "County Auditor," which was lost.

Mr. McCallum offered the following amendment: Amend the amendment so as to strike out all except so much as requires the word "willfully" to be inserted and the word "slovenly" to be stricken out.

Lost.

Mr. Cosby moved to strike out the entire section.

Mr. Walkup rose to a point of order: The motion was not in order, the section having been passed by both Houses.

The Chair ruled the point well taken.

Mr. Melony appealed from the decision of the Chair.

The question being, "Shall the decision of the Chair stand as the judgment of the Senate?" the ayes and noes were demanded by Messrs. Johnson of Sacramento, Westmoreland, and Melony, and taken with the following result:

## AYES.

Messrs. Bell, Carpenter, Cosby, Crandall, Dosh, Ferguson of Sacramento, Fiske, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Mandeville, Merritt, Mesick, Norman, Shaw, Taliaferro, Walkup, Westmoreland—18.

## NOES.

Messrs. Barnett, Bynum, Chase, Coffroth, Ferguson of Sierra, McCallum, Melony, Soule, Sullivan, Woodworth—10.

Mr. Ashley declined voting.

So the ruling of the Chair was sustained.

The question recurring on the motion to concur in Assembly amendment to section 45, the ayes and noes were demanded by Messrs. Mandeville, Melony, and Westmoreland, with the following result:

## AYES.

Messrs. Burnett, Bynum, Carpenters, Chase, Cosby, Crandall, De La Guerra, Dosh, Ferguson of Sacramento, Goodwin, Johnson of Sacramento, Mandeville, McGee, Melony, Merritt, Norman, Shaw, Taliaferro, Walkup, Westmoreland—20.

## NOES.

Messrs. Coffroth, Ferguson of Sierra, Fiske, McCallum, Mesick, Soule, Sullivan, Waite, Woodworth—9.

So the motion to concur was carried.

Assembly amendment to section 46, concurred in.

Assembly amendment to section 53, concurred in.

Assembly amendment to section 54, concurred in.

Mr. Johnson of Sacramento, offered the following as an amendment to the Assembly amendment to section 53.

SEC. 53. So much of sections eight and twelve of the Act of May 15th, 1854, entitled "An Act to provide Revenue for the support of the Government of this State;" and so much of sections three and four of the Act of April 27th, 1855, entitled "An Act to amend an Act to provide Revenue for the support of the Government of this State, passed May 15th, 1854;" and so much of section one of the Act of April 19th, 1856, entitled "An Act amendatory of an Act to provide Revenue for the support of the Government of the State, passed May 15th, 1854, passed April 27th, 1855," as provide what disposition shall be made of money collected for license taxes, are hereby repealed; and it is hereby directed, that all license moneys, the disposal of which was heretofore governed by the sections in this section named, shall hereafter be paid into the County Treasury, one-half for State purposes, and the other half for County purposes.

Adopted.

The question being on concurring in Assembly amendment to section 55, the ayes and noes were demanded by Messrs. Bell, Westmoreland, and Chase.

Mr. Melony moved a call of the Senate.

Lost, and ayes and noes taken on the motion to concur, with the following result:

## AYES.

Messrs. Ashley, Carpenter, De la Guerra, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Mandeville, McCallum, McGee, Norman, Shaw, Soule, Sullivan, Waite and Walkup—16.

## NOES.

Messrs. Bell, Burnett, Chase, Dosh, Ferguson of Sacramento, Johnson of El Dorado, Melony, Merritt, Taliaferro, Westmoreland and Woodworth—11.

So the amendment was concurred in.

Assembly amendment to Sec. 56 was concurred in, except as to the "Proviso," which was stricken out.

Question, being on concurring in Assembly additional Section 59, the ayes



and noes were demanded by Messrs. De la Guerra, Coffroth and Taliaferro, and taken with the following result:

AYES.

Messrs. Burnett, Chase, Crandall, Dosh, Ferguson of Sacramento, Fiske, Johnson of Sacramento, McCallum, McGee, Melony, Merritt, Norman, Shaw, Taliaferro, Walkup and Westmoreland—16.

NOES.

Messrs. Bynum, Coffroth, De la Guerra, Johnson of El Dorado, Sullivan, Waite and Woodworth—7.

Messrs. Ashley, Bell, Ferguson of Sierra, Goodwin and Soule, declined voting. So the additional section was adopted.

Mr. Crandall made the following report:

*Mr. President :*

The Committee on Enrolled Bills have examined and found correctly enrolled, Senate Bill No. 186, an Act to authorize the Executors of J. L. Folsom, deceased, to sell real estate of testator at private sale.

D. CRANDALL.

Mr. McGee moved to reconsider the vote by which the Senate concurred in Assembly amendment to Sec. 55.

Mr. Walkup moved a call of the Senate ; which was lost.

The ayes and noes were demanded by Messrs. Bell, Bynum and Chase, on reconsidering, and taken with the following result:

AYES.

Messrs. Bell, Burnett, Bynum, Chase, Coffroth, Cosby, Crandall, Dosh, Ferguson of Sacramento, Goodwin, Johnson of El Dorado, Melony, Merritt, Taliaferro, Westmoreland and Woodworth—16.

NOES.

Messrs. Ashley, De la Guerra, Ferguson of Sierra, Fiske, Johnson of Sacramento, Mandeville, McCallum, McGee, Norman, Shaw, Soule, Sullivan, Waite and Walkup—14.

So the vote was reconsidered.

Question on concurring, the ayes and noes were demanded by Messrs Johnson of Sacramento, Fiske and Mandeville.

Mr. Mandeville moved a call of the Senate, which was carried.

Mr. Dosh moved to suspend further proceedings under the call.

The Chair ruled the motion out of order, as the roll had not been called under the call of the Senate.

Mr. Cosby appealed from the decision of the Chair.

Question on the appeal was put, and decision of the Chair overruled.

On motion of Mr. Johnson of El Dorado, leave of absence was granted to Mr. Carpenter, for the day.

Question on Mr. Dosh's motion to suspend further proceedings under the call was put and carried.

Question recurring on the motion to concur in Assembly amendment to section fifty-five, the ayes and noes were taken with the following result :

AYES.

Messrs. Ashley, Crandall, De la Guerra, Ferguson of Sierra, Fiske, Johnson of Sacramento, Mandeville, Norman, Shaw, Soule, Waite and Walkup—12.

NOES.

Messrs. Bell, Burnett, Bynum, Chase, Coffroth, Cosby, Dosh, Ferguson of Sacramento, Johnson of El Dorado, McCallum, Melony, Merritt, Taliaferro, Westmoreland and Woodworth—15.

So the Senate non-concurred.

Mr. McCallum moved to reconsider the vote just taken.

The Chair ruled not in order.

Whereupon Mr. Goodwin appealed from the decision of the chair, upon which the ayes and noes were demanded by Messrs. McCallum, Mandeville and Goodwin, and taken with the following result :

AYES.

Messrs. Bell, Burnett, Bynum, Chase, Cosby, Dosh, Ferguson of Sacramento, Johnson of El Dorado, McGee, Sullivan, Taliaferro and Westmoreland—12.

NOES.

Messrs. Ashley, De la Guerra, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Mandeville, McCallum, Melony, Norman, Shaw, Soule, Waite, Walkup and Woodworth—15.

So the decision of the Chair was overruled.

Question recurring on the motion of Mr. McCallum to reconsider, the ayes and noes were demanded by Messrs. Mandeville, Walkup and Johnson of Sacramento, and taken with the following result :

AYES.

Messrs. Ashley, De la Guerra, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Mandeville, McCallum, Norman, Shaw, Soule, Waite and Walkup—13.

## NOES.

Messrs. Bell, Burnett, Bynum, Chase, Cosby, Dosh, Ferguson of Sacramento, Johnson of El Dorado, Melony, Merritt, Taliaferro, Westmoreland and Woodworth—13.

Messrs. Coffroth, McGee and Sullivan, declined voting.

So the Senate refused to reconsider.

Assembly amendment to section sixty, Senate non-concurred.

Mr. Coffroth moved that a Committee of Free Conference be appointed, consisting of three on the disagreeing vote of the House on the Revenue Bill, which was lost.

Mr. Norman rose to a question of privilege, read a protest, and asked that it be placed upon the journals.

Pending the action upon which, Mr. Melony made the following report :

*Mr. President :*

The Committee on Engrossed Bills have examined and found correctly engrossed, Senate Bill No. 235, entitled An Act making appropriations for the Support of the Civil Government of this State for the ninth fiscal year, commencing on the first day of July, A. D. 1857, and ending on the thirtieth day of June, A. D. 1858, inclusive.

A. R. MELONY,  
Chairman.

April 23, 1857.

Also, the following :

*Mr. President :*

The Committee on Engrossed Bills have examined and find correctly engrossed Senate Bill No. 236, entitled an Act making appropriation for the Support of the Civil Government of this State for the remainder of the eighth fiscal year commencing on the first day of February, 1857, and ending on the thirtieth day of June, A. D. 1857, inclusive.

A. R. MELONY, Chairman.

Mr. Coffroth moved to take up the message just received from the Assembly, which was carried, and message read as follows:

*Mr. President :*

I am directed to inform the Senate that the Assembly has appointed Messrs. Clarke, Hall and Irwin, a Committee of Conference on Senate Bill No. 173, an Act to provide Revenue for the Support of the Government of this State, the Assembly having refused to recede from their amendments, and ask the appointment of a similar committee on the part of the Senate.

W. CAMPBELL,  
Clerk of Assembly.

April 23d, 1857.

Mr. Coffroth moved that the message be adopted, and a committee appointed on the part of the Senate, upon which the ayes and noes were demanded by

Messrs. Mandeville, Coffroth and Johnson of Sacramento, and taken with the following result:

AYES.

Messrs. Ashley, Bell, Bynum, Coffroth, Cosby, De La Guerra, Ferguson of Sacramento, Fiske, Goodwin, Soule, Sullivan, Taliaferro, Waite, Westmoreland and Woolworth—15.

NOES.

Messrs. Burnett, Chase, Crandall, Dash, Ferguson of Sierra, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, McGee, Melony, Merritt, Norman, Shaw and Walkup—15.

So the motion was lost.

Mr. McCallum moved that the message be returned to the Assembly with a request that they recede from the appointment of a Committee of Free Conference, and appoint a simple Committee of Conference in lieu thereof; upon which the ayes and noes were demanded by Messrs. Coffroth, Bell and Woolworth, and taken with the following result:

AYES.

Messrs. Burnett, Bynum, Chase, Cosby, Crandall, Dash, Ferguson of Sierra, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, McGee, Melony, Merritt, Norman, Shaw, Taliaferro, Walkup and Westmoreland—19.

NOES.

Messrs. Ashley, Bell, Coffroth, De La Guerra, Ferguson of Sacramento, Fiske, Goodwin, Soule, Sullivan, Waite and Woolworth—11.

So the motion prevailed.

After much debate, and the protest offered by Mr. Norman being modified, the same was ordered to be spread upon the Journals as follows:

PROTEST.

The Senate having under consideration an amendment to the Revenue bill, a vote was taken, and the Chair (Mr. Merritt) declared the vote. Mr. Norman and two other Senators demanded the ayes and noes. The Chair decided that, after the vote had been declared, a call for the ayes and noes was out of order, and could not be had. Mr. Norman appealed from the decision of the Chair, and the Senate sustained the Chair.

The above being a plain statement of the facts, the undersigned ask leave to enter their protest against the decision of the Chair and the ruling of the Senate, for the reason that thereby, in our opinion, a plain and unmistakable section of the Constitution of this State has been overridden and nullified, as will be found by reading Article 4, Section 11:

"Each House shall keep a Journal of its own proceedings, and publish the same; and the yeas and nays of the members of either House, on any question, shall, at the desire of any three members present, be entered on the Journal."

The undersigned would respectfully submit, that if the Senate has the right to render nugatory the above clause of the Constitution, it has the same right



to annul or abrogate the remainder of it. Under such ruling, the rights of the people are endangered ; for their representatives are deprived of their constitutional rights, and placed at the mercy of a mere majority. Majorities are not always right, as may be seen by their action in the present case.

Believing this to be the first time in the history of this State that the Senate has, in our opinion, violated the Constitution in this respect, and trusting that it may be the last, we place this, our earnest protest, upon the Journals, against what must appear to every reflecting mind an unjust, unconstitutional and dangerous ruling.

W. B. NORMAN,  
JOS. WALKUP,  
S. H. DOSH.

On motion of Mr. Manderville, the rules were suspended, and the following Assembly message was taken up and read:

*Mr. President :*

The Assembly have this day passed Assembly Bill No. 445, an Act amendatory of and supplementary to an Act entitled an Act to repeal the several Charters of the city of San Francisco, to establish the Boundaries of the city and county of San Francisco, and to consolidate the Government thereof, approved April 19th, 1856, of and to which there is a certain other Act amendatory and supplementary, approved April 18th, 1857.

April 23, 1857.

J. W. SCOBAY,  
Assistant Clerk.

Assembly Bill No. 445 was read first and second times, the rules suspended, and bill further considered in Committee of the Whole.

After having spent some time in so considering the bill, the committee rose, and reported the bill back to the Senate without amendment, recommending its passage.

In Senate. The bill was read a third time and passed.

Mr. Goodwin made the following report:

*Mr. President:*

The Committee on Engrossed Bills have examined Senate Bill No. 207, entitled an Act to authorize the introduction of Water into the city of San Francisco, and find the same correctly engrossed.

E. L. SULLIVAN,  
J. O. GOODWIN,  
J. G. McCALLUM.

Mr. Ashley made the following report:

*Mr. President:*

The Committee on Claims have considered an Act for the Relief of James Allen, State Printer, which has passed the Assembly, and believe the service for which the act proposes to pay, was performed at the order of Assembly in a former year, and so is a valid claim, although the printing was carelessly ordered

hence we recommend the Act to the Senate with certain amendments, which are sent with the Act.

**D. R. ASHLEY, of the Committee.**

**Amendment:** Strike out all after the word "allowed" in the 11th line.

Report accepted, and with bill, placed on calendar.

**Mr. Ashley made the following report:**

*Mr. President :*

The Committee on Enrollment have examined Senate Bill No 208, an Act making a grant for a Wharf at Monterey and providing for the same, and find it correctly enrolled, and presented said bill to the Governor for his approval, on the 21st April, A. D. 1857.

**D. R. ASHLEY,**  
Of the Committee.

**Mr. Ashley also made the following reports:**

*Mr. President :*

The Committee on Claims have considered an Act for the Relief of R. G. Crozier, passed by the Assembly, and having previously reported in favor of the claim, the committee after consideration would again recommend the claim and the passage of the bill with a slight amendment, which is sent with the Act.

**D. R. ASHLEY, of the Committee.**

**Amendment**—strike out all after the word "allowed," in the 6th line.

Report accepted, and with bill placed on calendar.

**Also the following:**

*Mr. President :*

The Committee on Claims have considered Assembly bills Nos. 136 and 423, and both being for like services, the pay for which is fixed by law, the committee recommend that the bills be combined, by amending No. 136 and indefinitely postponing 423; we also amend, by adding another precisely similar claim for transporting prisoners to the State Prison, and thus saving the need of passing of three separate bills, recommend that the Act as amended be passed.

**D. R. ASHLEY, of Committee.**

**Amendment**—strike out all after the word "allowed," in the 6th line, and insert—and the claim of W. B. Thornburgh, Sheriff of Yuba County, against the State of California, for the sum of eight hundred and forty dollars, for services rendered in conveying prisoners to the State Prison, in the year 1855, is hereby audited and allowed.

And the claim of O. R. Stampley, Sheriff of Santa Cruz County, for taking a prisoner to the State Prison in the year 1855, amounting to one hundred and thirty-five dollars, is hereby audited and allowed.

Amend the title to read, "An Act to audit and allow certain claims."

**Mr. Ashley made the following report:**

*Mr. President :*

The Judiciary Committee has considered Senate bill No. 237, "An Act authorizing the auditing and allowing certain claims against the State of California," and recommend amendments which accompany the Act, and thus amended, would recommend the bill to the favorable consideration of the Senate.

**D. R. ASHLEY, Chairman.**

Amendment—append to first section, "And the claim of Hamilton Bowie, for provisions furnished to the State Prison during the year 1855, is hereby audited and allowed, for ten thousand one hundred and eleven dollars."

Append as section two—

Sec. 2. The amounts allowed in this Act to the various parties named, is in full satisfaction for all demands respectively, against the State of California, and each of the parties herein named, before he can receive any advantage under this Act, or use or transfer these audited claims, or receive pay thereon in any manner, must execute and file with the Controller of State, a release to the State of California of all demands up to the passage of this Act; and any of the parties herein named, who have received Controller's warrants, which are now unpaid and outstanding, for any of the matters herein allowed, must also with said release deliver up to the Controller, such warrants for cancellation.

Amend the title to read "An Act to audit and allow certain claims."

Report received and placed on calendar.

**Mr. Crandall, made the following report :**

*Mr. President :*

Your Committee on Enrolled Bills have presented to the Governor for his approval Senate Bill No. 186, An Act to authorize the Executors of J. L. Folsom, deceased, to sell real estate of testator at private sale.

**D. CRANDALL.**

**Mr. Crandall made the following report :**

*Mr. President :*

The Committee on Enrolled Bills have examined and found correctly enrolled, Senate Bill No. 176, An Act supplemental and amendatory of an Act to authorize the formation of Corporations for the construction of Plank or Turnpike Roads.

Also, Bill No. 214, an Act amendatory of an Act to incorporate the City of Sacramento.

Also, Joint Resolution relative to the cancellation of Controller's Warrants, and matters concerned therewith.

Also, Joint Resolution asking Congress to provide for running township lines in the mineral lands of this State.

And, Senate Bill No. 203, an Act supplementary to and explanatory of an Act entitled an Act amendatory of and supplementary to an Act entitled an Act to create the office of State Printer and define the duties and compensation thereof, and to provide for the time and manner of election.

**D. CRANDALL,**  
Chairman.

The following message was received from the Assembly:

*Mr. President :*

I am directed to inform the Senate that the Assembly has recessed from their appointment of a Committee of Free Conference on Senate Bill No. 173, and have appointed Messrs Stevenson, Brent and Hall a Committee of Conference on the disagreeing vote on the bill.

W. CAMPBELL,  
Clerk of Assembly.

April 23, 1857.

The Chair appointed Messrs. Johnson of Sacramento, Walkup and McCallum, the Committee of Conference on the part of the Senate.

Mr. Melony made the following report :

*Mr. President :*

The Committee on Engrossed Bills have examined and found correctly engrossed, Senate Bill No. 233, entitled an Act to reduce and fix the per diem of members, officers, and employees of the Legislature, and other employees of the Government.

A. R. MELONY, Chairman.

On motion of Mr. Goodwin, the Assembly concurrent resolution relative to a certain enrolled bill, reported 24th April, was taken up and concurred in.

Mr. Burnett made the following report :

*Mr. President :*

The Committee on Claims, to whom was referred Assembly bill No. 428, an Act amendatory to and explanatory of an Act entitled an Act to authorize the Treasurer of State to issue certain interest coupons, approved April 4th, 1857, have considered the same, and would report that the bill passed during the early part of the session provides for issuing interest coupons to certain parties who had lost original coupons to certain bonds of this State, but did not describe them so definitely as to warrant the State Treasurer to issue the new coupons. This bill remedies such defect in the original Act, and, in the opinion of the Committee, should pass.

W. C. BURNETT, of Committee.

Mr. Burnett moved to suspend the rules so as to consider the bill, which was lost, and the bill placed on the calendar.

#### SPECIAL ORDER OF THE DAY.

Assembly bill No. 316, an Act to provide for the sale of the Swamp and Overflowed Lands belonging to this State, was considered in Committee of the Whole, with the amendments reported by the Committee on Public Lands, 21st April, and after having spent some time in the consideration thereof, the Committee rose and reported the bill and amendments back to the Senate.

In Senate—Mr. Merritt in the chair.

Mr. Dosh moved to concur in the amendments.

Mr. Shaw moved to strike out the enacting clause of the bill.



Mr. Dosh rose to a point of order, which was—To amend had precedence.

The Chair ruled the point not well taken.

Mr. Coffroth moved to adjourn ; upon which the ayes and noes were demanded by Messrs. Norman, Burnett and De La Guerra, and taken with the following result :

AYES.

Messrs. Ashley, Chase, Coffroth, Cosby, Crandall, Goodwin, Mandeville, Norman, Sullivan, Taliaferro, Waite and Westmoreland—12.

NOES.

Messrs. Bell, Burnett, Bynum, De La Guerra, Dosh, Ferguson of Sacramento, Johnson of Sacramento, Johnson of El Dorado, McCallum, McGee, Merriitt, Shaw, Soule, Walkup and Woodworth—15.

So the Senate refused to adjourn.

On motion of Mr. Ferguson, the bill was made the special order of the day for to-morrow, at 11 o'clock.

Mr. Burnett gave notice, that on to-morrow he would introduce a bill for an Act concerning certain fees paid by the County of Yuba.

Mr. Goodwin made the following report:

*Mr. President :*

The Committee to whom was referred Assembly bill No. 363, have considered the same, and report it back with recommendation that it pass.

J. O. GOODWIN.

Report received, and bill placed on calendar.

Mr. Burnett made the following report:

*Mr. President :*

The Committee on Claims, to whom was referred Assembly bill No. 424, for an Act for the relief of M. Scott, Jr., and also the claims of J. D. Potter, H. M. Fanning, F. E. Coreoran, Baker & —, H. P. Lobdelly, Rivett & Co., Greenbaum & Bucki, Placerville American, Sisters of Mercy, Drs. W. P. & H. Gibbons, L. Banrizer & Scott, have had the same under consideration, and would respectfully report in favor of amending the title of Assembly bill No. 424, so that it shall read, " An Act to audit and allow certain claims," and also of striking out all after the word " allowed," in the 6th line of section first.

Insert at the end of section first, the following:

The claim of Rivett & Co, for one hundred and seventy-five dollars and ninety cents, which accrued on account of upholstery goods furnished the State, in the year 1855.

The claim of H. M. Fanning, for seven hundred dollars, which accrued on account of removing a frame building standing near the State Insane Asylum, in the year 1856.

The claim of Greenbaum & Bucki, for sixty dollars, on account of crockery ware furnished the State, in the year 1856.

The claim of the Placerville American, for forty-eight dollars, which accrued during the year 1856, for publishing the Governor's Proclamation relative to proposed amendments to the Constitution.

The claim of M. B. Russell, Superior of Sisters of Mercy, for fifteen thousand dollars, which accrued on account of care of indigent sick, during the years 1855, 1856, and 1857.

The claim of H. & W. P. Gibbons, for eighteen hundred and eighty-four dollars, for care and maintenance of the sick in State Marine Hospital, in the year 1855.

The claim of L. Ransom, for five hundred and sixty-seven dollars, for furnishing the Surveyor General with plats of township subdivision, in the years 1855, and 1856.

The claim of Baker & ———, for one hundred and thirty-two dollars and sixty cents, accruing on account of hardware furnished in the year 1856.

The claim of H. P. Lopdell, for nine dollars and fifty cents, on account of repairing furniture for Judiciary Committee of the Senate, in the year 1856.

The claim of James D. Potter, for two hundred and sixty one dollars and sixty cents, for copying and writing up the Senate Journal book for the year 1856, and the claim of F. E. Corcoran, for twelve hundred dollars, which accrued on account of the erecting of a wing to the State Insane Asylum, in the year 1856, are hereby audited and allowed.

We recommend that Senate Bill No. 92, an Act for the relief of H. M. Manning, be indefinitely postponed.

The Committee also recommend that Senate Bill No. 110, entitled an Act for the relief of Drs. H. and W. P. Gibbons, and Senate Bill No. 108, entitled an Act to compensate Superior of M. B. Russell, sister of mercy, for services rendered in taking care of and maintaining the indigent sick of this State, be indefinitely postponed, and that no other compensation be allowed upon any of the claims mentioned herein, than is in the report recommended.

W. C. BURNETT,  
Of Committee on Claims.

Report received and placed on calendar.

On motion of Mr. Coffroth, the Senate adjourned.

Approved April 25, 1857.

R. M. ANDERSON,  
President Senate.

Attest:

GEO. S. EVANS, Secretary Senate.

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IN SENATE.

SATURDAY, April 25th, 1857.

Senate met pursuant to adjournment.

President in the chair.

Roll called.

Journals of yesterday read and approved.

Mr. Bell, by leave, introduced the following resolution :

*Resolved*, That John McClenchy be and he hereby is re-instated to his office of Door-keeper of the Senate, from which post he has been suspended since the 22d instant.

Adopted.

On motion of Mr. Cosby, Assembly bill No. 379, an Act authorizing the Treasurer of State to issue bonds for the Payment of Expenses incurred in the Suppression of Indian Hostilities in certain counties in this State, was taken up and considered, amendments reported from Committee of the Whole on the 23d inst. non-concurred in, rules suspended, bill read a third time and passed.

Mr. Crandall moved to suspend the rules and take up Assembly bill No. 115, an Act amendatory of an Act entitled an Act to establish the Boundaries of Amador County, and fix the County Seat thereof, passed April 23d, 1855 ; upon which the ayes and noes were demanded by Messrs. McCallum, Carpenter and Fiske, and taken with the following result :

#### AYES.

Messrs. Ashley, Bell, Burnett, Bynum, Chase, Coffroth, Cosby, Crandall, Dosh, Ferguson of Sierra, Johnson of Sacramento, Maudeville, McGee, Melony, Merritt, Shaw, Taliaferro, Walkup and Westmoreland—19.

#### NOES.

Messrs. Carpenter, Fiske, Goodwin, McCallum and Soule—5.  
Messrs. Johnson of El Dorado and Mesick declined voting.

So the bill was taken up and considered.

Mr. McCallum moved to lay the bill on the table.

Lost.

After debate, Mr. Goodwin moved the previous question, which was sustained.

Question—Shall the main question be now put—was put and carried.

The question being on the third reading of the bill, the ayes and noes were demanded by Messrs. Fiske, Carpenter and McCallum, and taken with the following result :

#### AYES.

Messrs. Bell, Burnett, Bynum, Chase, Coffroth, Crandall, De La Guerra, Dosh, Ferguson of Sacramento, Maudeville, McGee, Melony, Taliaferro, Walkup, and Westmoreland—15.

#### NOES.

Messrs. Carpenter, Fiske, Goodwin, McCallum, Soule, Sullivan, and Woodworth—7.

Messrs. Ashley, Cosby, Ferguson of Sierra, Johnson of El Dorado, and Merick, declined voting.

So the bill was read a third time and passed.

Mr. McCallum moved to reconsider the vote by which the Senate passed the bill.

Mr. Crandall moved to indefinitely postpone the motion to reconsider.

Mr. Fiske moved to lay the motion to indefinitely postpone the motion to reconsider on the table.

Upon which, the ayes and noes were demanded by Messrs. Fiske, Carpenter, and McCallum, and taken with the following result:

AYES.

Messrs. Carpenter, Fiske, Goodwin, McCallum, Soule, Sullivan, and Woodworth—7.

NOES.

Messrs. Bell, Burnett, Bynum, Chase, Crandall, Dosh, Ferguson of Sacramento, Mandeville, McGee, Melony, Merritt, Norman, Taliaferro, Walkup, and Westmoreland—15.

Messrs. Ferguson of Sierra, Johnson of El Dorado, and Mesick, declined voting.

So the motion to lay on the table was lost

The question recurring on the motion to indefinitely postpone the motion to reconsider, the ayes and noes were demanded by Messrs. Fiske, Carpenter, and McCallum.

Mr. Merritt moved the previous question, which was sustained.

Question, "Shall the main question be now put?" was put and carried.

The main question being the motion to indefinitely postpone the motion to reconsider, upon which the ayes and noes had been demanded, the same were taken with the following result:

AYES.

Messrs. Ashley, Bell, Burnett, Bynum, Chase, Coffroth, Crandall, Dosh, Ferguson of Sacramento, Mandeville, McGee, Melony, Merritt, Norman, Taliaferro, Waite, Walkup and Westmoreland—18.

NOES.

Messrs. Fiske, Goodwin, McCallum, Soule, Sullivan and Woodworth—6.

Messrs. Ferguson of Sierra, Johnson of El Dorado and Mesick declined voting.

So the motion to indefinitely postpone the motion to reconsider was carried.

Mr. Bynum made the following report:

*Mr. President :*

The Committee on Counties and County Boundaries have had under consideration Senate Bill No. 222, entitled an Act more clearly defining the western boundaries of Alameda County and the City of Oakland, within said county, and report the same back together with accompanying documents, marked A, B, C and D, respectfully recommend the same to the further consideration of the Senate.

S. BYNUM, Chairman.

Report accepted.



Mr. Bell moved to suspend the rules and consider the bill, which was lost, and the bill, with report, was placed on the calendar.

Mr. Goodwin, of the Committee on Free Conference, made the following report on Senate Bill No. 143, an Act to amend an Act entitled an Act concerning Sheriffs," passed April 29th, 1851:

Strike out in Assembly amendment No. 1 the words "entitled an Act to amend an Act" in 4th and 5th lines.

Strike out Assembly amendment No. 2; and strike out the words "or the Judge thereof or a County Judge," in the 14th and 15th lines, and insert "in which the suit or proceeding is pending or the Judge thereof."

BURCH,  
HUME,  
GOODWIN,  
ASHLEY,  
Committee.

Report read and adopted.

Mr. Shaw made the following report:

*Mr. President:*

The Committee on Claims, to whom was referred Assembly Bill No. 335, an Act for the Relief of D. F. Newton, report that the bill does not include any claim against the State, but provides that the Board of Supervisors of San Luis Obispo County may audit a certain claim against said county, the committee seeing no objections to the bill, recommend its passage.

WM. J. SHAW,  
Chairman.

Report accepted and bill placed on the calendar.

Mr. Crandall made the following report:

*Mr. President:*

Your Committee on Enrollment presented to the Governor on the 24th inst. Senate Bill No. 176, an Act supplemental and amendatory of an Act to authorize the formation of Corporations for the construction of Plank and Turnpike Roads.

Also, Bill No. 204, an Act amendatory of an Act to incorporate the city of Sacramento.

Also, Bill No. 203, an Act supplementary to and explanatory of an Act to create the office of State Printer, and define the duties and compensation thereof, and to provide for the time and manner of election.

D. CRANDALL, Chairman.

Also, the following report:

*Mr. President:*

The Committee on Enrolled Bills have examined and find correctly enrolled, Senate Bill No. 244, an Act supplementary to an Act entitled an Act to authorize William Moody and Morgan Hart to build a wharf in the County of Solano, approved May 3d, 1852.

Also, the following report:

*Mr. President:*

The Committee on Enrollment have examined and find correctly enrolled, the following concurrent resolutions, to-wit:

Resolution relative to the translation of the laws into Spanish.

Resolution relative to the establishment of certain mail routes in El Dorado County.

Resolution adding the Chairman of the Committee on Free Conference on the General Appropriation Bill, to the Committee on Enrolled Bills.

Resolution on Joint Convention.

Resolution on Insane Hospital

Resolution requesting His Excellency, the Governor, to return a certain bill for correction.

Resolution requesting the Governor to return an enrolled bill, to limit the time for presentation of claims against counties.

Resolution relative to weekly mail.

Resolution directing State Treasurer to pay the warrants drawn since January 1, 1857.

Resolution on opening votes on amending the Constitution.

Resolution urging on Congress the establishment of a new and separate Steamboat Inspection District.

Resolution requesting the Governor to correspond with the Secretary of War and the Secretary of the Treasury of the United States, relative to a survey of the water front of the City of San Francisco, having reference to the construction of a sea wall or bulkhead, &c.

Resolution on Insane Asylum.

Resolution making the Committees of Senate and Assembly on Public Expenditures a joint committee to examine the accounts of the Controller and Treasurer of State.

Resolution concerning the State Debt.

Resolution appointing a committee to examine and select proposals for translating the laws of 1856-7 into Spanish

Resolution relative to a certain mail route in El Dorado County.

Resolution to go into Joint Convention for the election of officers to the Insane Asylum at Stockton.

Resolution appointing a committee to designate what laws shall be published in Spanish.

Resolution relating to the translation of the laws of 1856 to 1857, and binding the same.

**D. CRANDALL, Chairman.**

Mr. Coffroth, Chairman of Committee on Public Lands, made a verbal report on Assembly Bill No. 67, an Act to provide for the sale of the 16th and 36th sections of land, donated to the State of California for school purposes, recommending its passage.

Also, on Assembly Bill No. 307, an Act amendatory of an Act entitled an Act to provide for the sale of the swamp and overflowed lands belonging to the State, approved April 28th, 1855, recommending its indefinite postponement.

Also, on Assembly Bill No. 249, an Act amendatory of an Act entitled an Act to provide for the disposal of the 500,000 acres of land granted to this State by Act of Congress, recommending its indefinite postponement.

**Bills placed on calendar.**

Mr. Merritt made a verbal report on Assembly Bill No 273, an Act to organize the County of Buena Vista, recommending its passage.

Report accepted and bill placed on calendar.

Mr. Soule made the following report :

*Mr. President :*

The Committee on Commerce and Navigation, to whom was referred Assembly Bill No. 120, an Act to prohibit the erection of wiers and other obstructions to the run of salmon, report they believe legislation entirely useless on this subject so far as it is designed to protect salmon.

History tells us that when the Eastern Atlantic States, New Brunswick, Nova Scotia and Lower Canada, were first settled, the rivers of those countries, from the Hudson to the St. Lawrence, abounded in salmon quite as plentiful as do now the rivers emptying into the Northern Pacific, the statute books of most of those countries are full of statute laws passed for the protection of that and other kinds of migrating fish, all of which proved insufficient to prolong their duration. The works of civilization have driven them almost entirely from the rivers of those countries, except the great St. Lawrence and its northern tributaries, where the inclemency of the climate gives them that protection which statute laws will not. Time has shown that salmon can not or will not, continue their migrations in rivers where mills and navigation are permanently established. For these reasons we recommend the bill be indefinitely postponed.

SAM'L SOULE,

For the Committee.

Report accepted and with bill placed on calendar.

Mr. Walkup made the following report:

*Mr. President :*

The Placer Delegation, to whom was referred Assembly Bill No. 410, report the same to the Senate and recommend its passage.

JOS. WALKUP,  
WESTMORELAND.

Report accepted, and, on motion, the rules were suspended, bill considered-read a third time, and passed.

Mr. Carpenter made the following report :

*Mr. President:*

The undersigned, members of the El Dorado Delegation, to whom was referred Assembly bill No. 409, an Act to separate the office of Collector from the office of Sheriff in the County of El Dorado, ask leave to report the same back, with amendments, and recommend its passage.

G. J. CARPENTER,  
J. G. McCALLUM,  
S. M. JOHNSON,  
H. M. FISKE.

Amend section two, fourth line, by striking out the word "March," and insert "October."

Amend section three, fifth line, by striking out the word "such," and lines sixth, seventh and eighth, from the word "or" to the word "licenses," inclusive, and insert "in the sum of forty thousand dollars."

Amend section four, third line, by inserting the word "miners" between the words "foreign" and "license."

Report accepted.

Mr. Carpenter moved to suspend the rules, which was lost, and the bill and report were placed on the calendar.

Mr. Chase made a verbal report relative to Senate bill No. 240, an Act to supply the city of Nevada with water, and protect the city against fires, with amendments, recommending its passage as amended.

Section one, line six, strike out "twenty," and insert "ten." Line thirteen strike out all after "imposed," and insert "But this Act shall not be held to take away or impair any rights of any company or individual to supply said city or inhabitants thereof with water, acquired before any grant or contract shall be made by virtue of this Act."

Section 4, line 9. strike out all after "rates," and insert "as may reduce the rate of interest on the capital invested below two per cent. per month."

Section 5. Strike out section five.

Report accepted, and with bill placed on calendar.

Mr. Chase made a verbal report relative to Assembly bill No. 138, "An Act to amend an Act to incorporate the City of Nevada," approved April 19, 1856, and submit a substitute.

Report accepted, and bill and substitute placed on calendar.

The following message was received from the Governor:

EXECUTIVE DEPARTMENT,  
Sacramento, April 24, 1857. }

*To the Senate of California:*

I have this day approved "An Act to authorize the Executors of Joseph L. Folsom, deceased, to sell real estate of their testator at private sale."

J. NEELY JOHNSON.

Mr. Coffroth rose to a question of privilege, and stated that a bill had been lost from his desk, he then moved that the roll be called and each Senator in his place state what knowledge he had of the bill.

Adopted.

The roll was called, and the Senators present, as their names were called, stated that they had no knowledge of the whereabouts of the bill.

Messrs. Burnett and Fiske were absent.

The following message was received from the Governor:

EXECUTIVE DEPARTMENT,  
Sacramento, April 14th, 1857. }

*To the Senate of California:*

I have this day approved an Act concerning County Warrants.

J. NEELY JOHNSON.

The following message was received from the Assembly:



*Mr. President :*

The Assembly have this day passed Senate bill No. 232, an Act to provide for the Construction of a Wagon Road from Oroville, Butte county, to, and intersecting at the most practicable point, the line of the supposed National Wagon Road, that has its terminus at or near Honey Lake, Plumas county, with amendments.

April 24th, 1857.

J. W. SCOBAY,  
Assistant Clerk.

Senate Bill No. 232, was taken up and amendments of the Assembly concurred in.

SPECIAL ORDER OF THE DAY.

Assembly Bill No. 316, an Act to provide for the sale of the swamp and overflowed lands belonging to this State, with amendments adopted in Committee of the Whole, on the 24th inst., was considered in Senate, committee amendments concurred in, with three exceptions, and further amended in Senate as therein shown.

Question being on the final passage of the bill as amended. the ayes and noes were demanded by Messrs. Shaw, Soule and Carpenter, and taken with the following result :

AYES.

Messrs. Bell, Cosby, Crandall, Dosh, Ferguson of Sacramento, Johnson of Sacramento, Melony and Westmoreland—8.

NOES.

Messrs. Ashley, Burnett, Carpenter, Coffroth, Johnson of El Dorado, Mandeville, Merritt, Mesick, Shaw, Soule, Taliaferro, Waite, Walkup and Woodworth—14.

Messrs. De la Guerra, Ferguson of Sierra, Fiske and McCallum, declined voting.

So the bill was rejected.

Mr. Coffroth moved to reconsider the vote by which the Senate refused to pass the bill.

On motion, the motion to reconsider was laid on the table.

The following message was received from the Assembly :

*Mr. President :*

The Assembly have this day adopted two concurrent resolutions relative to certain enrolled bills, and ask the concurrence of the Senate.

April 25th, 1857.

J. W. SCOBAY,  
Assistant Clerk.

The resolutions were read and concurred in.

On motion of Mr. Merritt, Assembly Bill No. 166, an Act to provide revenue for the support of the Government of this State from a tax to be levied and collected from foreign and inland bills, and other matters, was considered.

Mr. Shaw moved to strike out the enacting clause.

Mr. De la Guerra moved a call of the Senate.

Lost.

Mr. McCallum rose to a point of order: That a motion to strike out enacting clause was not in order.

The Chair decided the point not well taken.

Question being on the motion of Mr. Shaw, the ayes and noes were demanded by Messrs. Soule, De La Guerra and Shaw, and taken with the following result:

AYES.

Messrs. Burnett, Goodwin, Shaw, Soule and Woodworth—5.

NOES.

Messrs. Ashley, Bell, Carpenter, Cosby, De La Guerra, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Johnson of El Dorado, Mandeville, McCallum, Merritt, Mesick, Norman, Taliaferro, Waite and Westmoreland—18.

So the Senate refused to strike out.

The bill was then considered in Committee of the Whole, pending which, by unanimous consent, Mr. Coffroth presented the following resolution:

*Resolved*, That the Assembly be requested to send to the Senate an engrossed copy of an Act to provide for the draining and reclaiming of certain Swamp and Overflowed Lands in the Counties of Yolo and Solano.

Adopted.

Consideration of Assembly Bill No. 166 was then resumed in Committee of the Whole.

After some time spent in so amending the bill, the committee rose, reported the same back with amendments.

In Senate. Mr. Mesick moved a call of the Senate.

Lost.

Amendments of Committee of the Whole adopted.

Mr. Westmoreland moved to insert "any promissory note, bond, inland bill of exchange, or writing obligatory for the payment of money, either absolutely or by way of penalty, for the sum of fifty dollars and over," which was stricken out in Committee of the Whole.

Lost.

Mr. Bell moved to insert "any promissory note" in line 32, section 1, which was lost.

Mr. Woodworth moved to strike out "foreign bills of exchange" in first section.

Mr. Norman moved the previous question, which was sustained.

Question, "Shall the main question be put?" was put and carried.

Question, on motion of Mr. Woodworth, was taken and lost.

The main question being the final passage of the bill, the ayes and noes were demanded by Messrs Soule, Woodworth and Merritt, and taken with the following result:

AYES.

Messrs. Bell, Chase, Cosby, Crandall, De la Guerra, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Johnson of El Dorado, Mandeville, McGee, Merritt, Norman, Taliaferro and Westmoreland—16.

NOES.

Messrs. Ashley, Burnett, Coffroth, Goodwin, McCallum, Melony, Mesick, Shaw, Soule, Waite and Woodworth—11.

So the bill passed.

The following message was received from the Governor:

EXECUTIVE DEPARTMENT,  
Sacramento, April 23, 1857. }

*To the Senate of California :*

I have this day approved an Act to authorize the Board of Supervisors of Marin County to pay the current expenses of said county.

Substitute for Assembly Bill, an Act to pay E. H. Burnes, for services rendered in the suppression of Indian Hostilities in the County of Klamath in this State.

Senate Substitute for Assembly Bill, an Act to adjust the amount of indebtedness of the County of Napa to the County of Solano, and to provide for the payment thereof.

J. NEELY JOHNSON.

The following message was received from the Assembly:

*Mr. President:*

The Assembly have this day adopted a resolution relative to adjournment *sine die*, and ask the concurrence of the Senate.

April 25th, 1857.

J. W. SCOBEEY,  
Assistant Clerk.

Assembly Resolution relative to adjournment was taken up.

Mr. Shaw offered the following amendment:

"*Provided, however,* That all legislative business shall entirely cease on Tuesday next, nor shall any bill be presented to the Governor for his approval after 2 o'clock, P. M. on Wednesday.

On motion of Mr. Coffroth, the whole subject matter was made the special order for Monday next, the 27th inst., at 10½ o'clock.

The following message was received from the Assembly:

*Mr. President :*

I am directed to inform the Senate that the Assembly on to-day passed Assembly Bill No. 432, an Act for the cancellation of the State Prison contract now existing between the State of California and James M. Estell, Lessee of the State Prison.

W. CAMPBELL,  
Clerk Assembly.

April 25, 1857.

Assembly Bill No. 432, was read first time, and on motion the rules were suspended, bill read a second time, and referred to the Judiciary Committee.

The following messages were received from the Assembly:

*Mr. President :*

The Assembly have this day passed Senate Bill No. 186, an Act to authorize the Executors of Joseph L. Folsom, deceased, to sell real estate of their testator at private sale.

J. W. SCOBEEY,  
Assistant Clerk.

April 23, 1857.

Also, the following:

*Mr. President :*

I am directed to inform the Senate, that the Assembly have this day passed Assembly bill No. 447, "An Act to create a Board of Commissioners for the county of San Mateo."

Also Senate bill No. 198, "An Act to authorize the sale of certain real estate by Guardian."

Also, concurred in Senate Concurrent Resolution relative to the translation of the laws of 1856 and 1857, and binding the same.

Also, concurred in Senate Concurrent Resolution appointing committee to designate what laws shall be printed in Spanish, and have appointed on part of the House, Messrs. Brent, Graves, and Miles, of Santa Cruz.

J. W. SCOBEEY,  
Assistant Clerk.

April 24th, 1857.

Assembly bill No. 447, was read a first and second times, rules further suspended, bill read a third time and passed.

The following message was received from the Assembly:

ASSEMBLY CHAMBER, April 24th, 1857.

*Mr. President :*

I am directed to inform the Senate, that the Assembly have this day concurred in Senate amendments to Assembly bill No 385, "An Act to repeal an Act entitled an Act amendatory of an Act entitled an Act concerning County Judges," passed April 4th, 1854, and also an Act which passed April 30th, 1855, amendatory of the above recited Act, approved April 18th, 1856.

Also have passed Assembly bill No. 431, "An Act amendatory of, and supplementary to an Act entitled an Act for the better protection of the State Treasury," approved April 16th, 1856.

J. W. SCOBEEY, Assistant Clerk.



Assembly bill No. 431, was read first and second times.

Mr. Norman moved to further suspend the rules, upon which the ayes and noes were demanded by Messrs. Goodwin, Mesick, and Ashley, and taken with the following result:

AYES.

Messrs. Bell, Burnett, Carpenter, Chase, Crandall, Dosh, Ferguson of Sierra, Johnson of El Dorado, Mandeville, McCallum, McGee, Melony, Merritt, Norman, Shaw, Soule, Taliaferro, Walkup—18.

NOES.

Messrs. Ashley, Cosby, Ferguson of Sacramento, Goodwin, Johnson of Sacramento, Mesick, Waite, Westmoreland, Woodworth—9.

Mr. Coffroth declined voting.

So the motion prevailed.

The bill was then read a third time.

The question being on the final passage of the bill, the ayes and noes were demanded by Messrs. Mesick, Goodwin and Ashley, and taken with the following result:

AYES.

Messrs. Ashley, Bell, Burnett, Carpenter, Chase, Cosby, Crandall, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McCallum, McGee, Melony, Merritt, Mesick, Norman, Shaw, Soule, Taliaferro, Walkup and Woodworth—25.

NOES.

Mr. Waite—1.

Messrs. Coffroth and Westmoreland declined voting.

So the bill passed.

The following message was received from the Assembly:

ASSEMBLY CHAMBER, April 24, 1857.

*Mr. President:*

I am directed to inform the Senate that the Assembly, on yesterday, adopted Senate concurrent resolution instructing the Enrolling Committee to make certain amendments to a Senate enrolled bill.

Also, concurred in Senate amendments to Senate Bill No. 202, an Act to provide for paying certain equitable claims against the State of California, and to contract a funded debt for that purpose.

Also, passed Assembly Bill No. 433, an Act to amend an Act to define the time when the county officers of Sierra County shall enter upon the discharge of their duties.

Also, have adopted a concurrent resolution relative to a certain enrolled bill, and ask the concurrence of the Senate.

Also, on the 20th inst., passed Assembly Bill No. 302, an Act to reimburse Peter Freer, Sheriff of Butte County, for monies overpaid the State of California, for foreign miners' license tax.

Also, on the 21st inst., passed Assembly Bill No. 427, an Act for the appoint-

ment of a committee to adjust and settle the books and accounts of the late Treasurers, S. A. McMeans and Henry Bates.

Also, Assembly Bill No. 353, an Act to repeal an Act entitled an Act to provide for the construction of the State Capitol in the City of Sacramento, approved April 18, 1856.

Also, on yesterday, passed Assembly Bill No. 446, an Act to authorize the administrator of the estate of S. H. Grubler, deceased, to sell property of said estate at public or private sale.

Senate bill No. 244, "An Act supplementary to an Act entitled an Act to authorize William Moody and Morgan Hart to build a wharf in the county of Solano," approved May 3d, 1852.

W. CAMPBELL,  
Clerk of Assembly.

Assembly bill No. 433, was read a first and second times, rules further suspended, read a third time and passed.

Assembly bill No. 302, was read first and second times, and referred to Committee on Claims.

Assembly bill No. 427, was read first and second times, and referred to the Committee on Claims.

Assembly bill No. 446, was read first and second times.

Mr. Cosby moved to further suspend the rules, which was lost, and the bill placed on calendar.

Assembly bill No. 353, was read first and second times.

Mr. Dosh moved to further suspend the rules, which was lost, and the bill placed on the calendar.

The following message was received from the Assembly:

*Mr. President :*

I am directed to inform the Senate, that the Assembly on to-day passed Assembly bill No. 384, "An Act in relation to the salaries of, and the fees received by the County Clerk and County Recorder of the City and County of San Francisco, and prescribing certain of their powers and duties."

Also passed Assembly bill No. 365, "An Act to amend an Act entitled an Act to regulate proceedings in civil cases in the Courts of Justice in this State," passed April 29th, 1851, and of the several Acts amendatory thereof.

April 23d, 1857.  
W. CAMPBELL,  
Clerk of Assembly.

Assembly bill No. 384, was read first time.

Assembly bill No. 365, was read first time.

Mr. McCallum moved to suspend the rules and read the bill second time.

Lost.

The following message was received from the Assembly.

*Mr. President :*

The Assembly have refused to concur in Senate amendments to Assembly bill No. 318, "An Act to fund the debt of the county of Siskiyou."

April 23d, 1857.  
J. W. SCOBEY,  
Assistant Clerk.

On motion of Mr. Cosby, the Chair appointed a Committee of Conference on the part of the Senate, consisting of Messrs. Cosby, Dosh, and Mesick, to confer with a like committee on the part of the Assembly, upon the disagreeing vote on said bill.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate, that the Assembly has this day passed Assembly bill No. 361, "An Act supplemental and amendatory of an Act entitled an Act to prescribe the mode of drawing Grand Jurors and Trial Jurors, in the City and County of San Francisco.

April 23d, 1857.

W. CAMPBELL,  
Clerk of Assembly.

Assembly Bill No. 361 was read first time.

Mr. Shaw moved to suspend the rules and read the bill a second time.  
Lost.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly this day concurred in Senate amendments to Assembly Bill No. 419, an Act to authorize the Superintendent of Common Schools for the County of Placer to teach school.

Also, in Senate amendments to Assembly Bill No. 257, an Act authorizing the location and patenting of school lands.

Also, to-day passed Assembly Bill No. 270, an Act to amend an Act entitled an Act to provide revenue for the support of the Government of this State, passed May 15th, 1854.

Also, Assembly Bill No. 276, an Act amendatory to an Act entitled an Act to provide revenue for the support of the Government of this State, passed May 15, 1854.

April 24, 1857.

J. W. SCOBEEY,  
Assistant Clerk.

Assembly Bill No. 270, was read first and second times and referred to the Committee on Finance.

Assembly Bill No. 276, was read a first and second times and referred to the Committee on Finance.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly have this day passed Assembly Bill No. 421, an Act to authorize the construction of a telegraph line from Marysville to the Territory of Oregon.

April 24, 1857.

J. W. SCOBEEY,  
Assistant Clerk.

Assembly Bill No. 421, was read first and second times and referred to the Committee on Corporations.

The following message was received from the Assembly :

*Mr. President:*

I am directed to inform the Senate that the Assembly on yesterday passed the following Assembly bills:

Assembly Bill No. 99, an Act to fix the times and places for holding the terms of the District Court of the Tenth Judicial District of this State, and the County Court of the County of Yuba.

Assembly Bill No. 397, an Act amendatory of an Act to provide for funding the indebtedness of the County of Yuba, approved March 26, 1857.

Also, adopted concurrent resolution instructing the Attorney General to dismiss the suit against the sureties of E. A. Rowe & Co.

Also, Assembly joint resolution No. 14, in relation to the survey of the eastern boundary of the State of California.

Also, passed Senate bill No. 183, an Act to prohibit Gaming.

Also, passed Assembly bill No. 308, an Act to authorize the construction of Wharves upon Sloughs and Creeks in certain counties of this State.

Also, passed Assembly bill No. 373, an Act to authorize the Board of Supervisors of the city and county of San Francisco to allow, confirm and direct the auditing of certain Claims therein mentioned.

W. CAMPBELL,  
Clerk of Assembly.

Assembly bill No. 99 was read first and second times and placed on calendar.

Assembly bill No. 397 was read first and second times and placed on calendar.

Assembly joint resolution No. 14 was read first time.

Assembly bill No. 308 was read first time.

Assembly bill No. 373 was read first and second times.

On motion of Mr. Mesick, the rules were further suspended, bill read third time and passed.

Concurrent resolution in regard to the suspension of suit against the sureties of E. A. Rowe was read and referred to the Judiciary Committee.

The following message was received from the Assembly:

*Mr. President:*

The Assembly have this day adopted a concurrent resolution relative to a certain enrolled bill, and ask the concurrence of the Senate.

The resolution was concurred in.

The following message was received from the Assembly:

*Mr. President:*

ASSEMBLY CHAMBER, April 25, 1857.

I am directed to inform the Senate that the Assembly have this day, after making amendments, passed Senate bill No. 236, an Act making appropriations for the Support of the Civil Government of the State for the remainder of the eighth fiscal year, commencing on the 1st day of February, A. D. 1857, and ending on the 30th day of June, A. D. 1857, inclusive, and ask the concurrence of the Senate to the amendment.

Also, on the 20th inst., passed Assembly bill No. 380, an Act submitting to the people of El Dorado and Sacramento Counties a proposition to appropriate money for the construction of a Wagon Road.



Also, on yesterday passed Assembly bill No. 406, an Act to provide for the Draining and Reclaiming of certain Swamp and Overflowed Lands in the counties of Colusi and Yolo

Also, to-day amended and passed Senate bill No. 235, an Act making Appropriations for the Support of the Civil Government of the State for the ninth fiscal year, commencing on the first day of July, A. D. 1857, and ending on the 30th day of June, A. D. 1858, inclusive, and ask the concurrence of the Senate to the amendments.

W. CAMPBELL, Clerk of Assembly.

Senate bill No. 236, with amendments of the Assembly. The amendments were concurred in, with the exception of the first, which was amended.

And the amendment to the second section, to which the Senate non-concurred.

By unanimous leave, the Committee of Conference on Senate bill No. 173, an Act to provide Revenue for the Support of the Government of this State, made the following report:

*Mr. President:*

The Committee of Conference on the disagreeing vote on amendments to the Revenue bill, recommend that the Senate recede on Assembly amendments to sections 26, 32, 39 and 55, and that Assembly proviso to section 56 be amended by striking out the words "five thousand" and inserting "twenty-five hundred," and that the Assembly recede from their amendments to sections 22, 46, 53, 54, 60 and 27, and that the Assembly agree to amend the proviso to section 56, by striking out the words "five thousand" and inserting "twenty-five hundred." Also strike out, in section 53, the words "the last preceding section," and insert after the word "section" the word "forty-eight." And that the Senate recede from their amendment to Assembly amendment to section 53.

JOSIAH JOHNSON,  
J. G. McCALLUM,  
JOSEPH WALKUP,  
Of the Senate.

BRENT,  
G. D. HALL,  
A. M. STEVENSON,  
Of the Assembly.

Report adopted.

Assembly Bill No. 380, was read first and second times and referred to the El Dorado and Sacramento Delegations.

Assembly Bill No. 406, was read a first time.

Senate Bill No. 235, with amendments of the Assembly—Senate concurred in the amendments, with the exception of the proviso to the first section, and the amendments to the third and fourth sections, to which the Senate non-concurred.

Mr. Burnett moved to adjourn, upon which the ayes and noes were demanded by Messrs Merritt, Coffroth and De la Guerra, and taken with the following result:

AYES.

Messrs. Ashley, Bell, Burpett, Carpenter, Chase, Crandall, Dosh, Ferguson

of the same, I signed at New Haven, Conn., at 11 o'clock, Monday, March 24, 1847.

Witness my hand and seal, at New Haven, Conn., this 24th day of March, 1847.

In presence of my friends,

Agreed that I

W. B. ALLEN, Jr.  
President of the Society

Witness  
Sam. B. French, Secretary

THIRTY-THIRD

Monday, April 27, 1847

Resolved and passed in affirmative  
motion, a paper  
from the  
Committee of Correspondence and Finance

The report of the Board of Finance and Correspondence, and Finance, for the 16th of the month, for the year ending on the 1st of April, 1847, was read and the following resolutions were adopted, passed April 16, 1847, with amendments, reported on the 16th and 17th of the month, 1847.

The report of the Board of Finance and Correspondence, and Finance, for the 16th of the month, for the year ending on the 1st of April, 1847, was read and the following resolutions were adopted, passed April 16, 1847, with amendments, reported on the 16th and 17th of the month, 1847.

The report of the Board of Finance and Correspondence, and Finance, for the 16th of the month, for the year ending on the 1st of April, 1847, was read and the following resolutions were adopted, passed April 16, 1847, with amendments, reported on the 16th and 17th of the month, 1847.

The report of the Board of Finance and Correspondence, and Finance, for the 16th of the month, for the year ending on the 1st of April, 1847, was read and the following resolutions were adopted, passed April 16, 1847, with amendments, reported on the 16th and 17th of the month, 1847.

The report of the Board of Finance and Correspondence, and Finance, for the 16th of the month, for the year ending on the 1st of April, 1847, was read and the following resolutions were adopted, passed April 16, 1847, with amendments, reported on the 16th and 17th of the month, 1847.

The report of the Board of Finance and Correspondence, and Finance, for the 16th of the month, for the year ending on the 1st of April, 1847, was read and the following resolutions were adopted, passed April 16, 1847, with amendments, reported on the 16th and 17th of the month, 1847.

The report of the Board of Finance and Correspondence, and Finance, for the 16th of the month, for the year ending on the 1st of April, 1847, was read and the following resolutions were adopted, passed April 16, 1847, with amendments, reported on the 16th and 17th of the month, 1847.

the capital stock of the Benicia and Marysville Railroad, or other Railroad Company, and to provide for the payment of the same, and other matters relating thereto, with amendments, reported on the 18th inst. by the Yuba Delegation.

Amendments adopted, bill read a third time and passed.

On motion, the title of the bill was amended.

Mr. McCallum made the following report :

*Mr. President :*

The El Dorado and Sacramento Delegations, to whom was referred Assembly Bill No. 380, an Act submitting to the people of El Dorado and Sacramento counties a proposition to appropriate money for the construction of a wagon road, have had the same under consideration, report the same, and recommend its passage, without amendment.

McCALLUM,  
CARPENTER,  
JOHNSON of El Dorado,  
FISKE,  
JOHNSON of Sacramento.

Report accepted, rules suspended, bill considered, read a third time and passed.

On motion of Mr. De La Guerra, Assembly Bill No. 392, an Act relative to publishing in the county of Santa Barbara and San Luis Obispo, was taken from the table, read a third time and passed.

The special order of the day, concurrent resolution to adjourn *sine die*, was taken up, with amendment, offered by Mr. Shaw on the 25th inst.

After discussion, Mr. Shaw withdrew his amendment.

Mr. Walkup offered the following substitute for the original resolution :

*Resolved, the Assembly concurring,* That the concurrent resolution of the two Houses, heretofore adopted, to adjourn *sine die* on this day be, and the same is hereby rescinded, and in lieu thereof it is

*Resolved,* That the Legislature will adjourn *sine die* on Tuesday, the 28th inst. at 12 o'clock M.; *Provided,* no Legislative business shall be transacted after this day, except that necessary to perfect appropriation bills, reports of Enrolling Committees, and messages from the Governor.

Mr. Mandeville in the Chair.

Mr. Burnett moved the previous question, which was sustained.

Question—"Shall the main question be now put?" was put and carried.

The main question being the adoption of the substitute, upon which the ayes and noes were demanded by Messrs. Shaw, Carpenter and Burnett, and taken with the following result :

AYES.

Messrs. Ashley, Burnett, Carpenter, Crandall, Goodwin, Johnson of Sacramento, Mandeville, Melony, Mesick, Shaw, Soule, Sullivan, Walkup, Woodworth—14.

## NOES.

Messrs. Bell, Bynum, Chase, Coffroth, Cosby, De La Guerra, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Johnson of El Dorado, McCallum, Merritt, Norman, Taliaferro, Waite, Westmoreland—17.

So the substitute was rejected.

The question being on the adoption of the original resolution, the ayes and noes were demanded by Messrs. Barnett, Walkup and Carpenter, and taken with the following result:

## AYES.

Messrs. Bell, Bynum, Chase, Coffroth, Cosby, De La Guerra, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Fiske, McCallum, Norman, Taliaferro, Waite and Westmoreland—15.

## NOES.

Messrs. Ashley, Burnett, Carpenter, Crandall, Goolwin, Johnson of Sacramento, Johnson of El Dorado, Mandeville, Melony, Mesick, Shaw, Soule, Sullivan, Walkup and Woodworth—15.

Being a tie vote, the President took the Chair and voted aye.

So the resolution was adopted.

Mr. Coffroth made a verbal report relative to Assembly bill No. 387, an Act to provide for the draining and reclaiming of certain Swamp and Overflowed Lands in the counties of Yolo and Solano, and recommended the same to the consideration of the Senate.

Bill placed on calendar.

Mr. Waite made a verbal report relative to Assembly bill No. 402, an Act granting to Gideon Auldbaugh, and such parties as he may associate with him, certain overflowed lands, on which the wharf constructed by him and others is situated, and recommending its passage.

Bill placed on calendar.

Mr. Ashley, Chairman of the Judiciary Committee made the following report:

*Mr. President :*

The Judiciary Committee have examined the Assembly resolution directing a discontinuance of the action pending against the sureties of E. A. Rowe, and thinking said action perhaps premature, and likely to release the sureties from the obligation to have the Express Company or Rowe to pay the \$124,000 interest in July, we recommend that the said Assembly resolution be passed.

D. R. ASHLEY,  
Chairman.

Report accepted, and with the resolution placed on the calendar.

Mr. Shaw made the following report:



*Mr. President:*

The Committee on Claims, to whom was referred an Act to reimburse Peter Freer, Sheriff of Butte, for moneys overpaid, &c., amounting to \$221, have examined the same, and recommend its passage with the understanding that the Foreign Miner's Licenses now in the hands of the Committee, and on which this claim is founded shall be surrendered to the Controller, provided the bill shall pass.

Report accepted, and with bill placed on calendar.

Mr. Shaw made the following report:

*Mr. President:*

The Committee on Claims, to whom was referred Assembly bill No. 427, an Act for the appointment of a committee to adjust and settle the books and accounts of the late State Treasurers, McMeans and Bates, have examined the same and recommend its passage without delay, it being a measure, in the opinion of your Committee, quite necessary in order to arrive at a proper knowledge of the actual financial condition of this government.

W. J. SHAW.

Report accepted, and with bill, placed on calendar.

The following message was received from the Governor:

STATE OF CALIFORNIA, EXECUTIVE DEPARTMENT, }  
Sacramento, February 27th, 1857.

*To the Assembly of California:*

An Act to authorize Jackson Prouty to construct a Wagon Road from Mokelumne Hill to a point on the Stockton road, at or near the Golden Gate Ranch, in the county of Calaveras, is herewith returned to you without my approval.

It will be remembered that on the 17th inst., an Act providing for the construction of a Plank Road in Tuolumne county, and on the 21st inst., an Act for the construction of a Turnpike Road in the counties of Santa Barbara and Los Angeles, I returned with my objections—acts which had originated in your honorable body, and the one now under consideration being subject to the like objections, I deem it needless to repeat the reasons why my approval is withheld, but would most respectfully refer you to the messages before alluded to as equally applicable to this Act.

Since transmitting those messages I have seen no cause why the views then expressed should be changed, and the general incorporation law of the State, affords abundant authority for the construction of this road, and the due protection of the interests of the party engaging in the laudable enterprise.

J. NEELY JOHNSON.

Read and laid on the table.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly, on to day, adopted report of Committee of Conference on Senate bill No. 173, an Act to provide Revenue for the support of the Government of this State.

Also, the following:

*Mr. President :*

I am directed to inform the Senate that the Assembly on to-day passed Assembly Bill No. 420, an Act to authorize the introduction of water into the city of San Francisco.

April 23, 1857

W. CAMPBELL,  
Clerk of Assembly.

Assembly Bill No. 420, was read first and second times, and referred to the Delegation from San Francisco.

Also, the following :

*Mr. President :*

I am directed to inform the Senate that the Assembly on the 25th inst. passed Assembly Bill No. 339, an Act concerning the State Prison.

Also, Assembly Bill No. 395, an Act to amend an Act entitled an Act defining the time for commencing civil actions, passed April 22, 1850.

Also, The House adopted report of Committee of Free Conference on Senate Bill No. 143, an Act to amend an Act entitled an Act concerning Sheriffs, passed April 29, 1851.

W. CAMPBELL,  
Clerk of Assembly.

Assembly Bills Nos. 339 and 395, were each read first time.

The following message was received from the Assembly :

*Mr. President :*

I am directed to inform the Senate that the Assembly on to-day passed Assembly Bill No. 448, an Act to amend an Act approved April 18, 1857, entitled an Act amendatory of and supplementary to an Act to repeal the several charters of the city of San Francisco, to establish the boundaries of the city and county of San Francisco, and to consolidate the government thereof, approved April 19, 1856.

Also, adopted concurrent resolution, requesting the Governor to return a certain enrolled bill, and ask the concurrence of the Senate.

Also, appointed Messrs. Varney, Hume and Whipple, Committee of Free Conference on Assembly Bill No. 318, an Act to fund the debt of the county of Siskiyou.

W. CAMPBELL,  
Clerk of Assembly.

Assembly Bill No. 448 was read first time.

Concurrent resolution relative to a certain enrolled bill was adopted.

#### SECOND READING OF BILLS.

Assembly Bill No. 406, an Act to provide for the draining and reclamation of certain overflowed lands in the counties of Colusa and Yolo, was read a second time and referred to the Committee on Public Lands.

Assembly joint resolution No. 14, in relation to the survey of the eastern boundary of the State of California was read second and third times and passed.

Assembly Bill No. 361, an Act supplemental to and amendatory of an Act

entitled an Act to prescribe the mode of drawing grand jurors and trial jurors in the city and county of San Francisco, was read second time and referred to the San Francisco Delegation.

Assembly Bill No. 308, an Act to authorize the construction of wharves upon sloughs and creeks in certain counties of this State, was read a second time and referred to the Committee on Commerce and Navigation.

Assembly Bill No. 447, an Act to create a Board of Commissioners for the county of San Mateo, was read a second time and referred to the Delegation from San Francisco.

Mr. Burnett made the following report :

The Committee on Claims, to whom was referred memorials and accounts in the matter of Hamilton Bowie, for furnishing provisions, &c. to the State Prison during the year 1855, have had the same under consideration, and respectfully report that this claim amounted to something over \$19,000. Your Committee have affixed the sworn prices of dealers of this city to the various articles furnished, and find due from the State upon that account the sum of \$10,111, which sum your Committee recommend to be audited, and allowed against the State.

W. C. BURNETT,

Of Committee on Claims.

Report accepted and placed on calendar.

Mr. Crandall, Chairman of the Committee on Enrollment, offered the following resolution:

*Resolved*, That the Enrolling Clerk of the Senate is hereby authorized to employ two assistants for the remainder of the session.

Adopted.

Mr. Shaw offered the following resolution:

*Resolved*, By the Senate, (the Assembly concurring,) That all Legislative business, except reports from committees and messages from the Governor, and action on the revenue and appropriation bills shall wholly cease at 12 o'clock M. on Tuesday the 28th of April.

Mr. Coffroth moved to lay the resolution on the table, which was lost.

Mr. Coffroth moved to insert "Wednesday."

Mr. Shaw moved the previous question, which was sustained.

Question—"Shall the main question be now put?" was put and carried.

The main question being the motion to insert "Wednesday," the ayes and noes were demanded by Messrs. Coffroth, Westmoreland and Ferguson of Sacramento, and taken with the following result:

AYES.

Messrs. Bell, Burnett, Bynum, Chase, Coffroth, De La Guerra, Ferguson of Sacramento, Fiske, McCallum, Merritt and Westmoreland—11.

## MRS.

Moore, James, Carpenter, Corbett, Dosh, Ferguson of Sierra, Graham, Johnson of Sacramento, Johnson of El Dorado, Macdonald, Malloy, Mosby, Norman, Shaw, Shaw, Sullivan, Walling, Wainwright and Wadsworth—18.

No. 24 was read.

The question touching an introduction of the resolution, the yeas and nays were demanded by Messrs. Wainwright, Corbett and Dr. La Guardia, and taken with the following result:

## AYES.

Moore, Ashley, Barrett, Carpenter, Corbett, Dosh, Ferguson of Sierra, Graham, Johnson of Sacramento, Johnson of El Dorado, Macdonald, Malloy, Mosby, Norman, Shaw, Shaw, Sullivan, Walling, Wainwright and Wadsworth—20.

## NAYS.

Moore, W. H. Brown, Chase, Corbett, Ferguson of Sacramento, Fiske and Walker—5.

Moore, Dr. La Guardia and Tallantree declared voting.

So the resolution passed.

Mr. Johnson offered the concurrent resolution.

Resolved, That the General Council be requested to inform, as soon as possible, upon the presentation of this bill, the Governor, the Executive Legislature, and that as soon as such act is returned, the Secretary of State shall have the same himself printed in pamphlet form, and distributed to the various county officers charged with the collection or disbursement of revenue.

Adopted.

Mr. Carpenter moved to suspend the rules and take up Assembly bill No. 444, so that it might be taken up before the bill of Tallantree, then the bill of Shaw, as the matter in El Dorado was previously reported by the El Dorado delegation, on the 21st inst., which was agreed to.

On motion the amendments were adopted, bill read a third time and passed.

Mr. Corbett moved to reconsider the vote by which the Senate refused to pass Assembly bill No. 444, so that as possible for the sale of the swamp and over-land-tracks belonging to the State.

Mr. Carpenter moved to indefinitely postpone the motion in connection upon which the reported laws were demanded by Messrs. Shaw, Carpenter and Walling.

Mr. Norman moved a call of the Senate, upon which the yeas and nays were demanded by Messrs. Norman, Shaw and Dr. La Guardia, and taken with the following result:

## AYES.

Moore, Ashley, Barrett, Brown, Carpenter, Corbett, Fiske, Johnson of El Dorado, Macdonald, Malloy, Mosby, Norman, Shaw, Shaw, Sullivan—14.



## NOES.

Messrs. Bell, Chase, Coffroth, De La Guerra, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Goodwin, Johnson of Sacramento, McCallum, Merritt, Taliaferro, Waite, Walkup, Westmoreland, Woodworth—16.

So the motion was lost.

Mr. McCallum moved the previous question, which was sustained.

Question—"Shall the main question be now put?" was put and carried.

The main question being the motion to indefinitely postpone the motion to reconsider, upon which the ayes and noes had been demanded. They were taken, with the following result :

## AYES.

Messrs. Ashley, Burnett, Carpenter, Mandeville, Melony, Norman, Shaw, Waite, Walkup—9.

## NOES.

Messrs. Bell, Bynum, Chase, Coffroth, Cosby, Crandall, De La Guerra, Dosh, Ferguson of Sacramento, Fiske, Goodwin, Johnson of Sacramento, Johnson of El Dorado, McCallum, Merritt, Mesick, Soule, Sullivan, Taliaferro, Westmoreland, Woodworth—21.

Mr. Ferguson of Sierra declined voting.

So the motion was lost.

The question recurring on the motion of Mr. Coffroth, to reconsider was put and carried.

Mr. Coffroth moved to reconsider the vote by which the Senate ordered the bill read a third time, which was carried.

On motion of Mr. Sullivan, the vote by which the Senate refused to strike out the "proviso" in the 10th section, was reconsidered.

Mr. De La Guerra offered an amendment to come in in place of the "proviso," in the 10th section, pending the action upon which, on motion of Mr. Coffroth, the whole subject matter was referred to a special committee of five, consisting of Messrs. Coffroth, Waite, Mesick, Johnson of Sacramento, and McCallum.

Mr. Taliaferro offered a resolution directing the Enrolling Clerk of the Senate to furnish the Governor a copy of Senate engrossed bill No. 129, which was adopted.

Mr. Cosby introduced a bill entitled an Act explanatory of and supplementary to an Act entitled an Act amendatory of and supplementary to an Act to repeal the several charters of the city of San Francisco, to establish the boundaries of the city and county of San Francisco, and to consolidate the government thereof, passed April 19th, 1856, passed April 18th, 1857.

Read first and second times, and referred to the San Francisco delegation.

Mr. Burnett introduced a bill entitled an Act concerning certain fees paid by the county of Yuba.

Read first and second times, and referred to the Yuba delegation.

Mr. Westmoreland introduced a bill entitled an Act fixing the time of holding the County Courts of Placer county.

Read first and second times, rules further suspended, bill considered engrossed, read a third time and passed.

Mr. Cosby made the following report :

*Mr. President :*

Your Committee of Conference, to whom was referred the disagreeing vote of the Assembly, whereby they disagreed to Senate amendments to Assembly bill No. 318, entitled an Act to fund the debt of Siskiyou, report the same back with the recommendation that the Assembly concur in Senate amendments.

JNO. D. COSBY,  
S. H. DOSH,  
MESICK,

Senate Committee.

B. F. VARNEY,  
I. HARE,  
S. G. WHIPPLE,

Assembly Committee.

On motion the report was adopted.

The following message was received from the Assembly :

*Mr. President :*

I am directed to inform the Senate that the Assembly has adopted a concurrent resolution relative to Assembly Bill No. 269, and ask the concurrence of the Senate.

W. CAMPBELL,

Clerk of Assembly.

On motion the resolution was read and concurred in.

#### THIRD READING OF BILLS.

Senate Bill No. 233, an Act to reduce and fix the per diem of members, officers and employees of the Legislature, and other employees of the government, being under consideration, Mr. Bell moved to lay upon the table.

Mr. McCallum moved a call of the Senate, upon which the ayes and noes were demanded by Messrs. McCallum, Fiske and Ashley, and taken with the following result :

AYES.

Messrs. Ashley, Burnett, Dosh, Fiske, McCallum, Norman, Shaw, Soule, Sullivan, Waite, Woodworth—11.

NOES.

Messrs. Bell, Bynum, Chase, Coffroth, Cosby, Crandall, De La Guerra, Ferguson of Sacramento, Ferguson of Sierra, Goodwin, Johnson of El Dorado, Mandeville, McGee, Melony, Merritt, Mesick, Taliaferro, Walkup, Westmoreland—19.

So the motion was lost.

Question being on the motion to lay on the table, the ayes and noes were de-

manded by Messrs. Fiske, Soule and McCallum, and taken with the following result :

AYES.

Messrs. Bell, Bynum, Chase, Cosby, Crandall, Ferguson of Sacramento, Ferguson of Sierra, Johnson of Sacramento, Johnson of El Dorado, Maudeville, Melony, Merritt, Mesick, Taliaferro, Westmoreland—15.

NOES.

Messrs. Ashley, Burnett, Carpenter, Coffroth, De La Guerra, Dosh, Fiske, Goodwin, McCallum, Norman, Shaw, Soule, Sullivan, Waite, Walkup, Woodworth—16.

So the motion was lost.

By unanimous consent, the following message from the Assembly was taken up and read :

*Mr. President :*

The Assembly refuse to recede from the amendments to Senate Bill No. 236, an Act making appropriation for the support of the civil government of the State for the remainder of the eighth fiscal year, commencing on the first day of February, A. D. 1857, and ending on the 30th day of June, A. D. 1857, and have appointed Messrs. Brent, Clark and Hall a Committee of Conference, and ask the appointment of a similar committee by the Senate.

April 27, 1857.

J. W. SCOBEEY,  
Assistant Clerk.

On motion of Mr. Waite, a Committee of Conference was appointed, consisting of Messrs. Waite, Ashley and Walkup, on the part of the Senate.

Consideration of Senate Bill No. 233 being resumed, Mr. Bell moved to recommit to Special Committee, with instructions to insert a proviso, providing that members and chaplains of the Legislature receive no pay from the State, pending the consideration of which the following message was received from the Assembly, and read :

*Mr. President :*

The Assembly have this day receded from the proviso to the first section of Senate Bill No. 235, an Act making appropriations for the support of the civil government of the State for the ninth fiscal year, commencing on the first day of July, 1857, and ending on the 30th day of June, 1858, inclusive, have insisted upon the other amendments, and appointed Messrs. Brent, Clark and Hall a Committee of Conference, and ask similar action on the part of the Senate.

Also, have this day passed Senate Bill No. 245, an Act to amend an Act entitled an Act to incorporate the city of Nevada, approved April 19th, 1856.

April 27, 1857.

J. W. SCOBEEY,  
Assistant Clerk.

Senate Bill No. 235—Senate appoint Messrs. Ashley, Waite and Walkup Committee of Conference.

Senate Bill No. 233 resumed.

Mr. Carpenter demanded the previous question, which was sustained.

Question—Shall the main question be now put—was put and carried.

Question—On motion of Mr. Bell to recommit, with special instructions, on which the ayes and noes were demanded by Messrs. McCallum, Carpenter and Mesick, and taken with the following result :

AYES.

Messrs. Bell, Bynum, Chase, Cosby, Crandall, Ferguson of Sacramento, Ferguson of Sierra, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McGee, Melony, Mesick, Taliaferro and Westmoreland—15.

NOES.

Messrs. Ashley, Burnett, Carpenter, Dosh, Fiske, Goodwin, McCallum, Norman, Shaw, Soule, Sullivan, Waite, Walkup and Woodworth—14.

So the bill was recommitted to special committee of three.

The Chair appointed Messrs. Bell, Taliaferro and Ferguson of Sacramento, said committee.

Mr. McCallum moved that the committee be instructed to report in one hour, upon which the ayes and noes were demanded by Messrs. Merritt, Walkup and McCallum, and taken with the following result:

AYES.

Messrs. Ashley, Carpenter, Dosh, Goodwin, McCallum, Shaw, Soule, Sullivan, Walkup and Woodworth—10.

NOES.

Messrs. Bell, Burnett, Bynum, Chase, Cosby, Crandall, Ferguson of Sacramento, Ferguson of Sierra, Johnson of Sacramento, Johnson of El Dorado, Mandeville, McGee, Melony, Mesick, Taliaferro and Westmoreland—16.

So the motion was lost.

Mr. Ferguson of Sacramento, by leave, introduced the following bill:

An Act supplementary to an Act entitled an Act to provide Revenue for the support of the Government of this State, passed April 25th, 1857.

Read first and second times, and considered in Committee of the Whole, amended, and reported back.

In Senate.—Committee amendments concurred in, rules suspended, bill considered engrossed, read a third time and passed.

Senate bill No 207, an Act to authorize the introduction of water into the city and county of San Francisco, was read a third time.

Mr. Coffroth moved a call of the Senate. Carried.

Roll called, and Sergeant-at-Arms dispatched after absent members.

Mr. Mandeville in the Chair.



On motion of Mr. Goodwin, the call was suspended.

On motion, the Senate took a recess of fifteen minutes.

The recess having expired, the Senate was called to order by Mr. Mandeville.

Mr. Woodworth moved a call of the Senate. Carried, and roll called.

A number of Senators appearing within the bar of the Senate, on motion of Mr. McCallum, proceedings under the call was suspended.

The question being on the passage of Senate bill No. 207, the ayes and noes were demanded by Messrs. Shaw, Goodwin and Ferguson of Sacramento, and taken with the following result:

AYES.

Messrs. Bynum, Crandall, Goodwin, Mandeville, McCallum, Mesick, Shaw, Soule, Sullivan, Waite and Walkup—11

NOES.

Messrs. Burnett, Coffroth, Cosby, De La Guerra, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Johnson of Sacramento, Johnson of El Dorado, McGee, Melony, Merritt, Norman, Taliaferro, Westmoreland and Woodworth—16.

Mr. Bell declined voting.

So the bill was rejected.

Assembly bill No. 57, "An Act supplementary to an Act entitled an Act to provide for the indigent sick in the counties of this State," approved April 11th, 1855, was indefinitely postponed.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate, that the Assembly have concurred in all of the Senate amendments to Assembly bill No. 166, "An Act to provide Revenue for the support of the Government of this State, from a tax to be levied and collected from foreign and inland bills, and other matters," with the exception of the third amendment—which is amended by the House, by striking out the word "foreign," and ask the concurrence of the Senate.

April 27th, 1857.

W. CAMPBELL,  
Clerk of Assembly.

Assembly amendment to Assembly bill 166, was concurred in.

Senate bill No. 177, "An Act concerning Roads and Highways," was laid on the table.

Senate bill No. 230, "An Act to amend an Act entitled an Act to fix the terms of the District Court, in the county of San Mateo," was read a third time and passed.

The Committee of Conference on Senate bills Nos. 235 and 236, Acts making appropriations for the support of the Civil Government of the State, for the years 1857 and 1858, made the following report:

*Mr. President :*

The Committee of Conference to whom was referred Senate bill 236, "An Act making appropriations for the support of the Civil Government of the State, for the remainder of the eighth fiscal year, commencing on the 1st day of February, A. D. 1857, and ending of the 30th day of June, A. D. 1857, inclusive, recommend that the Assembly recede from amendments generally—not concurred in.

Also Senate bill No. 235, Senate concurs in Assembly amendments to section first, by amending amendment, line 1st, after the word "all" insert the word "property," and Assembly recedes from all amendments not concurred in.

WAITE,	
ASHLEY,	
WALKUP.	
	Senate.
BRENT,	
CLARK,	
HALL,	
	Assembly.

*Adopted.*

Senate bill No. 231, an Act to prescribe the time for electing the Supervisors, School Directors and President of Board of Supervisors of the city and county of San Francisco, and to fix their terms of office, was read a third time and passed.

Senate bill No. 215, an Act to provide for the construction of the State Capitol in the city of Sacramento.

Mr. McCallum moved to indefinitely postpone, on which the ayes and noes were demanded by Messrs. Ferguson of Sacramento, Cosby and Westmoreland, and taken with the following result:

**AYES.**

Messrs. Ashley, Bynum, Carpenter, Cosby, Crandall, De La Guerra, Dosh, Ferguson of Sierra, Fiske, Johnson of El Dorado, Manderille, McCallum, Melony, Mesiek, Norman, Shaw, Soule, Sullivan, Taliaferro, Waite, Walkup and Woodworth—22.

**NOES.**

Messrs. Bell, Burnett, Caffroth, Ferguson of Sacramento, Johnson of Sacramento and Westmoreland—6.

Mr. Goodwin declined voting.

So the bill was indefinitely postponed.

The following message was received from the Assembly:

*Mr. President :*

I am directed to inform the Senate that the Assembly have this day amended and passed Senate bill No. 248, an Act supplementary to an Act entitled an

Act to provide Revenue for the Support of the Government of this State, passed April 25th, 1857, and ask the concurrence of the Senate to the amendment.

J. W. SCOBEX,  
Assistant Clerk.

April 27, 1857.

Senate bill No. 248, with amendments of Assembly: First amendment concurred in. Second amendment, Senate non-concurred, and appointed Ferguson of Sacramento, Norman and Melony, a Committee of Conference.

Mr. Crandall made the following report:

*Mr. President :*

Your Committee on Enrolled Bills have examined and found correctly enrolled, Senate Bill No. 232, an Act to provide for the construction of a Wagon Road from Oroville, Butte County, to and intersecting at the most practicable point the line of the supposed National Wagon Road, that has its terminus at or near Honey Lake, Plumas County.

Senate bill No. 198, an Act to authorize sale of certain Real Estate by Guardian.

Senate bill No. 183, an Act to prohibit Gaming.

D. CRANDALL.

The following message was received from the Assembly:

*Mr. President :*

I am directed to inform the Senate that the Assembly have this day amended and passed Senate bill No. 105, an Act concerning Notaries Public, and ask the concurrence of the Senate to the same.

J. W. SCOBEX,  
Assistant Clerk.

April 27, 1857.

Senate Bill No. 105, with amendment of Assembly—Mr. Walkup moved to strike out "July," and insert "February."

Lost.

On motion, the amendment of Assembly was concurred in.

The following message was received from the Assembly:

*Mr. President :*

The Assembly on the 24th inst. passed, without amendment, Senate Bill No. 129, an Act to authorize the Supervisors of the City and County of San Francisco to provide for the compensation due the Board of Examiners of said city.

Also, on the 23d inst., Assembly Bill No 414, an Act to provide for the draining and reclaiming of certain swamp and overflowed lands in the Counties of San Joaquin and Stanislaus.

J. W. SCOBEX,  
Assistant Clerk.

April 27, 1857.

Assembly Bill No. 414, was read first time.

The Special Committee to whom was referred Senate Bill No. 247, made the following report:

*Mr. President :*

The Special Committee to whom was referred an Act authorizing the Board of Supervisors of San Francisco to audit and allow the claim of J. Horace Kent, Coroner, report that they have considered the same, and recommend the passage of the bill after the adoption of the amendments herewith submitted.

F. A. WOODWORTH,  
E. L. SULLIVAN,  
WM. J. SHAW,  
SAM. SOULE.

Amend as follows:

Section 1, line 2d, add "City and" before "County." Also, add at the end of the section the following:

" *Provided*, there shall not be allowed to said Kent a greater sum than six thousand dollars, and the said Board is also authorized to audit and allow the claims of Messrs. Cornwall and Lussey, for services as interpreters in the courts of said city and county from the first day of July, 1856, to the 18th day of April, 1857, at the rate of not exceeding one hundred dollars per month for each interpreter, all which claims, after having been duly audited and allowed, shall be paid out of the general fund, in the same manner as other lawful demands against said city and county. *Provided, further*, That all payments made said Coroner during said period shall be deducted from the amount allowed under this Act."

No. 6 reported back. In Senate, amendments concurred in, rules suspended, bill considered engrossed, read third time and passed.

The Special Committee to whom was referred Assembly bill No. 447, made the following report :

*Mr. President :*

The Special Committee to whom was referred the Act to create a Board of Commissioners for the County of San Mateo, report that the citizens of San Mateo have suffered serious injury in consequence of the difficulties of having careful laws passed to complete the organization of said county. The history of these difficulties is familiar to many Senators. It is believed that the passage of this bill will remove grave doubts which will otherwise arise, for the reason that no provision is now made by law for fixing the places of holding the polls, and performing other duties requiring a Board of Commissioners. With regard to the individuals named in the bill to act as Commissioners, your Committee deem it a matter of minor importance whether those named by the Assembly be allowed to remain or not. Your Committee do not recommend any change in this respect, for the reason that, so far as they have been able to ascertain, the gentlemen named are well qualified for the duties imposed by this bill. Your Committee therefore unanimously recommend its passage.

E. L. SULLIVAN,  
F. A. WOODWORTH,  
SAM. SOULE,  
WM. J. SHAW.

Report accepted, rules suspended, bill read third time and passed.

The San Francisco Delegation, to whom was referred Assembly bill No. 361, made the following report :



*Mr. President :*

The committee to whom was referred Assembly Bill 361, an Act supplementary to an Act concerning Jurors, in and for San Francisco, report the same and unanimously recommend its passage, for the reason that it removes an objection heretofore against the original bill, and its passage is deemed actually necessary in order to remove graver doubts in the existing laws concerning jurors in said county.

WOODWORTH,  
SULLIVAN,  
SOULE,  
SHAW.

Mr. Shaw moved suspension of rules and consider the bill now.

Lost, and bill and report placed on calendar.

Mr. Dosh, by leave, introduced a bill for an Act authorizing the Judge of the Ninth Judicial District to hold a special term of the District Court in and for the County of Tehama, which was read first time, rules suspended, read second and third times and passed.

Assembly Bill No. 263, an Act to amend an Act entitled an Act to amend an Act entitled an Act to provide for the incorporation of Railroad Companies, passed May 15, 1853, amended May 15, 1854, amended April 10, 1855.

Mr. Norman moved its indefinite postponement.

Lost.

Question being on final passage of bill, the ayes and noes were demanded by Messrs. Norman, Walkup and Carpenter, and taken with the following result :

AYES.

Messrs. Bell, Burnett, Coffroth, De La Guerra, Ferguson of Sacramento, Ferguson of Sierra, Goodwin, Merritt, Mesick, Sullivan, Taliaferro, Waite, Westmoreland—13.

NOES.

Messrs. Ashley, Carpenter, Chase, Crandall, Fiskè, Johnson of Sacramento, Mandeville, McCallum, Melony, Norman, Walkup—11.

Messrs. Dosh, Shaw, Soule, and Woodworth, declined voting.

So the bill passed.

Mr. Crandall made the following report:

*Mr. President:*

The Committee on Enrolled bills have this day presented to the Governor for his approval, bill No. 183, "An Act to prohibit Gaming.

Also, bill No. 223, "An Act to provide for the construction of a Wagon Road from Oroville, Butte County, to an intersection at the most practicable point on the line of the proposed National Wagon Road, that has its termination at or near Honey Lake, Plumas County.

Also bill No. —, "An Act to authorize the sale of certain real estate by Guardians.

D. CRANDALL.

## GENERAL FILE RESUMED.

Senate bill No. 226, "An Act to authorize Priscilla H. Denham to sell certain real estate belonging to her minor children.

On motion the rules were suspended, bill considered engrossed, read third time and passed.

Mr. Walkup moved to adjourn.

Lost.

Mr. De La Guerra moved to take a recess until 10 P. M.

Lost.

Senate bill No. 121, "An Act to enable aliens to acquire and hold real property in this State."

Mr. Merritt moved to indefinitely postpone the bill, pending which, on motion, the rules were suspended and the following Assembly message was taken up and considered:

*Mr. President:*

I am directed to inform the Senate, that the Assembly have this day amended and passed Senate bill No. 141, "An Act supplemental to an Act entitled an Act to provide for the formation of Corporations for certain purposes," passed April 14th, 1853, and respectfully ask the concurrence of the Senate to the same, and have also passed Assembly bill No. 324, "An Act concerning certified copies of certain instruments in writing."

Also, have appointed Messrs. Irwin, Wood, and Burns, to compose on part of this House, Committee of Free Conference, on Senate bill No. 248, "An Act supplementary to an Act entitled an Act to provide Revenue for the support of the Government of this State," passed April 25th, 1857.

Also, that the Assembly have concurred in Senate amendment to Assembly bill No. 409, an Act to separate the office of Collector from the office of Sheriff in the county of El Dorado.

Also, have to-day passed Senate bill No. 240, an Act to supply the city of Nevada with Water and protect the city against fires.

Also, have concurred in Senate amendments to Assembly bill No. 142, an Act to authorize the Board of Supervisors of the county of Yuba to take and subscribe \$200,000 to the capital stock of a Railroad Company, and to provide for the payment of the same, and other matters relating thereto.

Also, have to-day passed Senate bill No. 230, an Act to amend an Act entitled an Act to fix the term of the District Court in the county of San Mateo.

J. W. SCOBEEY,  
Assistant Clerk.

April 27, 1857.

Assembly bill No. 324, an Act concerning certified copies of certain instruments in Writing, read first and second times and referred to the Judiciary Committee.

Senate bill No. 141, with amendment of Assembly: amendment concurred in.

The consideration of Senate bill No. 121 was resumed.

Mr. McCallum offered the following amendment:

Amend section 1st: Insert after the word "aliens" the words "being residents of this State."

Mr. McGee moved the previous question, which was not sustained.

Question recurring on Mr. McCallum's amendment, was put and carried.

Mr. Coffroth moved to suspend the rules and consider the bill engrossed.

Lost.

The question then recurring on Mr. Merritt's motion to indefinitely postpone the bill, the ayes and noes were demanded by Messrs. McCallum, Coffroth and Woodworth, and taken with the following result:

AYES.

Messrs. Ashley, Burnett, Bynum, Carpenter, Chase, Cosby, Crandall, Dosh, Fiske, Johnson of El Dorado, Mandeville, Melony, Merritt, Mesick, Norman, Shaw, Soule, Waite, Walkup and Westmoreland—20.

NOES.

Messrs. Bell, Coffroth, De La Guerra, Goodwin, Johnson of Sacramento, McCallum, McGee, Sullivan, Taliaferro and Woodworth—10.

So the bill was indefinitely postponed.

Mr. Merritt moved to suspend the rules and take up Assembly Bill No. 339, an Act concerning the State Prison, upon which the ayes and noes were demanded by Messrs. Walkup, Shaw and Soule, and taken with the following result :

AYES.

Messrs. Burnett, Bynum, Chase, Coffroth, Cosby, De la Guerra, Dosh, Goodwin, Johnson of Sacramento, Johnson of El Dorado, McCallum, McGee, Melony, Merritt, Norman, Sullivan, Taliaferro, Waite and Westmoreland—19.

NOES.

Messrs. Ashley, Bell, Crandall, Fiske, Mandeville, Mesick, Shaw, Soule, Walkup and Woodworth—10.

So the motion was lost.

Mr. Waite, by leave, introduced a bill entitled "An Act to provide for the payment of the salaries of District Judges for the month of January, A. D. 1857, which was read first and second times, rules suspended, read third time and passed.

On motion of Mr. McGee, Assembly Bill No. 302, "An Act to reimburse Peter Freer, Sheriff of Butte County, for moneys overpaid the State of California, for foreign miners' license tax," was taken up and considered, read third time and passed.

The following message was received from the Assembly :

*Mr. President :*

I am directed to inform the Senate that the Assembly have this day passed Senate Bill No. 246, "An Act fixing the time of holding the County Court in the County of Placer."

J. W. SCOBEEY, Assistant Clerk

The following message was received from the Assembly :

*Mr. President :*

The Assembly have this day concurred in report of Committee of Conference on Senate Bills Nos. 235 and 236, being the General Appropriation Bills.

Also, have adopted a resolution relative to the Revenue Bill.

On motion, the resolution was concurred in.

J. W. SCOBEEY,  
Assistant Clerk.

April 27, 1857.

Mr. Crandall made the following report :

*Mr. President :*

The Committee on Enrolled Bills have examined Senate Bill No. 129, an Act to authorize the Supervisors of the City and County of San Francisco to provide for the compensation due the Board of Examiners of said City, and find the same correctly enrolled.

D. CRANDALL, Chairman.

Senate Bill No. 163, an Act amending and supplemental to the Act entitled an Act to provide for the disposal of the five hundred thousand acres of land granted to the State by an Act of Congress passed on the 3d May, 1852, was on motion, laid on the table.

Mr. Carpenter moved to take up Assembly Bill No. 353, an Act to repeal an Act entitled an Act to provide for the construction of the State Capitol in the City of Sacramento, approved April 18, 1856.

Carried.

Pending the consideration of which, on motion of Mr. Westmoreland, the Senate adjourned.

Approved April 28th, 1857.

R. M. ANDERSON,  
President of the Senate.

Attest:

GEO. S. EVANS, Secretary Senate.



## IN SENATE.

TUESDAY, April 28, 1857.

Senate met pursuant to adjournment.

The President in the chair.

Roll called.

Journals of yesterday read in part, and on motion, reading dispensed with.

Mr. Goodwin made the following report :

*Mr. President :*

The Judiciary Committee to whom was referred Assembly Bill No. 324, An Act concerning certified copies of certain instruments in writing, have had the same under consideration, and report it back and recommend its passage with the following amendment :

After the word "thereto" in the third line of section two, insert "subject however to all legal exception that might be taken to the original, if produced."

Report accepted, and on motion, rules suspended, amendment adopted, bill read a third time and passed.

Mr. Crandall made the following report :

*Mr. President :*

The Committee on Enrolled Bills have presented to the Governor for his approval, Senate Bill No. 129, an Act to authorize the Board of Supervisors of the City and County of San Francisco to provide for the compensation due the Board of Examiners of said city.

D. CRANDALL.

Mr. Sullivan made the following report :

*Mr. President :*

The undersigned, members of the San Francisco delegation, to whom was referred Assembly Bill No. 420, an Act to authorize the introduction of water into the City of San Francisco, report that they have examined the same and recommend its passage.

E. L. SULLIVAN,  
W. J. SHAW,  
SAM. SOULE.

Report accepted, and on motion, rules suspended, bill read a third time and passed.

Mr. Coffroth, from the special committee on Assembly Bill No. 316, made the following report :

*Mr. President :*

The special committee on Assmby to whom was referred the swamp and

overflowed land bill, have had it under consideration and recommend its passage with amendments.

J. W. COFFROTH,  
Chairman.  
R. S. MESICK,  
JOSIAH JOHNSON.

SECTION 10. Strike out all after the word "same" on the seventh line, and insert as follows: "Patents issued under the provisions of this Act shall be construed to be deeds of bargain and sale conveying to the patentee in fee simple the title which the State of California has or may acquire in the lands described in the patent; but such patent shall not be construed to contain a warrantee whereby the patentee or those claiming under him may have any claim for damages against this State, in the event of their being evicted from said lands by title paramount to that of this State.

Fourteenth section, strike out proviso and insert as follows, as new section: "The Surveyor General and County Surveyors shall, in all cases in making their surveys under the provisions of this Act be governed by the lines of segregation established by the Surveyor General of the United States.

Report accepted.

Mr. Coffroth moved to make the bill, with amendments, the special order of the day for this day at 12 o'clock.

Mr. Walkup rose to a point of order: "It requires a suspension of the rules to make the bill the special order."

The Chair ruled the point not well taken.

Mr. Norman appealed from the decision of the Chair.

Question, "Shall the decision of the Chair stand as the judgment of the Senate?" was put, and decision of Chair sustained.

Mr. Carpenter moved to lay the motion to make the bill the special order, on the table, upon which the ayes and noes were demanded by Messrs. Coffroth, Bell, and Johnson of Sacramento, and taken with the following result:

AYES.

Messrs. Ashley, Burnett, Carpenter, Chase, Ferguson of Sacramento, Johnson of El Dorado, Melony, Merritt, Norman, Shaw, Soule, Walkup and Woodworth—13.

NOES.

Messrs. Bell, Bynum, Coffroth, Cosby, De la Guerra, Dosh, Fiske, Johnson of Sacramento, McCallum, McGee, Mesick, Sullivan, Taliaferro and Westmoreland—14.

Mr. Crandall declined voting.

So the motion to lay the motion to make the bill the special order, on the table, was lost.

The question recurring on the motion to make the bill the special order for this day at 12 o'clock, the ayes and noes were demanded by Messrs. Coffroth, Johnson of Sacramento, and De la Guerra, and taken with the following result:

## AYES.

Messrs. Bell, Bynum, Coffroth, Cosby, Crandall, De la Guerra, Dosh, Goodwin, Johnson of Sacramento, McCallum, McGee, Mesick, Sullivan, Taliaferro and Westmoreland—15.

## NOES.

Messrs. Ashley, Burnett, Carpenter, Chase, Ferguson of Sierra, Johnson of El Dorado, Mandeville, Melony, Merritt, Norman, Shaw, Soule, Walkup and Woodworth—14.

So the bill was made the special order for this day at 12 o'clock.

On motion of Mr. Woodworth, Senate Bill No. 212, an Act to amend an Act to regulate proceedings in civil cases in the courts of justice of this State, passed April 29, 1851, was taken up, considered in Committee of the Whole, and reported back with amendments.

In Senate—Amendments concurred in.

Mr. Woodworth moved to suspend the rules and consider the bill engrossed, which was lost.

Mr. Westmoreland moved to indefinitely postpone the bill, which was lost.

The bill was then ordered engrossed and read a third time.

A communication was received from B. R. Buckelew relative to State Prison affairs, which was read and referred to the Judiciary Committee.

Mr. Melony introduced an Act concerning the State Prison, which was read first and second times, and referred to the Judiciary Committee.

On motion of Mr. Mandeville, Assembly bill No. 339, an Act concerning State Prison, was taken up, read a second time, and referred to the Judiciary Committee.

Mr. Ashley presented a communication from Jesse D. Carr relative to State Prison matters, which was read and referred to the Judiciary Committee.

Mr. Shaw presented a proposition relative to State Prison matters from J. G. Wyatt, which was referred to the Judiciary Committee.

The following message was received from the Governor:

EXECUTIVE DEPARTMENT,  
Sacramento, April 27th, 1857. }

*To the Senate of California :*

On the twenty-fifth inst. I gave my approval to the following acts:

An Act supplementary to an Act entitled an Act to authorize William Moody and Morgan Hart to build a Wharf in the county of Solano, approved May 3d, 1852.

An Act supplementary to and explanatory of an Act entitled an Act amendatory of and supplementary to an Act entitled an Act to create the office of State Printer, and define the duties and compensation thereof, and to provide for the time and manner of election, passed May 1, 1854, passed April 11, 1857.

Also, on this day I have given my approval of the following act:

An Act amendatory of and supplementary to an Act to incorporate the city of Sacramento, passed March, 1851.

J. NEELY JOHNSON.

Also the following:

EXECUTIVE DEPARTMENT,  
Sacramento, April 28, 1857. }

*To the Senate of California :*

On the 27th inst. I approved an Act to prohibit Gaming.

Also, an Act to authorize the sale of certain Real Estate by Guardian.

I have also this day approved an Act to amend an Act entitled an Act to authorize the formation of Corporations for the construction of Plank and Turnpike Roads, passed May 12, 1853.

Also, an Act fixing the time of holding the County Court in the County of Placer.

Also, an Act to provide for the construction of a Wagon Road from Oroville, Butte County, to and intersecting at the most practicable point the line of the proposed National Wagon Road, that has its terminus at or near Honey Lake, Plumas County.

J. NEELY JOHNSON.

The following message was received from the Assembly:

ASSEMBLY CHAMBER, April 28th, 1857.

*Mr. President :*

I am directed to inform the Senate, that the Assembly on Saturday last, passed Assembly bill No. 449, "An Act to create a Board of Swamp and Overflowed Land Commissioners, and to prescribe their duties."

Also on yesterday, passed the following Assembly bills: No. 356, "An Act concerning poll taxes," and No. 371, "An Act explanatory of an Act to amend an Act to reduce and establish the salaries of Officers and pay of the Members of the Legislature," approved April 21st, 1856," and the following Senate bills: No. 250, "An Act authorizing the Judge of the Ninth Judicial District, to hold a special term of the District Court, in and for the county of Tehama," and No. 226, "An Act to authorize Priscilla H. Denham to sell certain real estate belonging to her minor children.

Also on yesterday, amended and concurred in Senate Concurrent Resolution, relative to the collating of the Revenue Laws, and respectfully ask the concurrence of the Senate to the amendment.

Also, have this morning amended and passed Senate bill No. 188, an Act to legalize Acknowledgments taken by the Recorder and Deputy Recorder of the County of Monterey, and ask the concurrence of the Senate to their amendments.

Also, have to-day passed Assembly bill No. 368, an Act to amend an Act entitled an Act to provide for the Protection of Foreigners, and to define their liabilities and privileges, passed March 30th, 1853.

Also, Senate bill No. 169, an Act to amend an Act entitled an Act to create a Board of Supervisors in the counties of this State, and to define their duties and powers.

Also, adopted concurrent resolution relative to Gymnastic Exercises in Public Schools, and ask the concurrence of Senate.

W. CAMPBELL,  
Clerk of Assembly.



Assembly bill No. 449 was read twice and referred to the Committee on Public Lands.

Assembly bill No. 371 was read twice.

Mr. Dosh moved to suspend the rules and consider the bill further.

Lost.

Mr. McCallum moved to refer the bill to a Special Committee appointed yesterday upon Senate bill No. 233, with instructions to report both bills at one o'clock.

A division of the question being called for, the question was taken on referring the bill.

Carried.

The question being on the motion to instruct,

Mr. Burnett moved the previous question.

Lost.

Mr. Ferguson moved to divide the question of instructions as to both bills.

The Chair ruled the motion out of order.

Mr. Ferguson appealed from the decision of the Chair.

Question—Shall the decision of the Chair stand as the judgment of the Senate?—was put, and Chair overruled.

The question was then put on instructing the Committee on the bill under consideration.

Lost.

The question recurring on the motion to instruct the Committee to report upon Senate bill No. 233, referred to them yesterday,

Mr. Mandeville moved to lay the whole subject matter on the table.

The Chair ruled the motion out of order.

Mr. Mandeville appealed from the decision of the Chair.

Question—Shall the decision of the Chair stand as the judgment of the Senate?—was put, and Chair overruled.

The question was then put on the motion of Mr. Mandeville to lay on the table. The ayes and noes being demanded by Messrs. McCallum, Soule and Waite, they were taken with the following result :

#### AYES.

Messrs. Bell, Bynum, Chase, Cosby, Crandall, De La Guerra, Ferguson of

Sacramento, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Maudeville, Melony, Merritt, Mesick, Taliaferro and Westmoreland—17.

#### NOES.

Messrs. Ashley, Burnett, Carpenter, Dosh, McCallum, Norman, Shaw, Soule, Sullivan, Waite, Walkup and Woodworth—12.

Mr. Johnson of El Dorado declined voting.

So the whole subject matter was laid on the table.

Assembly bill No. 356 was then considered, read twice, and referred to the Committee on Finance, with instructions to report in one hour.

Senate bill No. 188, with Assembly amendments; amendments concurred in.

Assembly concurrent resolution read and referred to Committee on Education.

Senate concurrent resolution, with Assembly amendments; amendments concurred in.

Assembly bill No. 368 was read twice; on motion of Mr. Shaw the rules were suspended, bill read a third time and passed.

Mr. Ferguson, of Sacramento, made the following report, which was read and adopted:

#### *To the Senate and Assembly:*

The Committee of Conference on Senate bill No. 248 have agreed, and report that the Assembly do recede from that part of their amendment inserting the counties of "Calaveras and Amador," and further report that "El Dorado" be inserted in the Act after the word "Yolo."

W. I. FERGUSON,

W. B. NORMAN,

A. R. MELONY,

Of the Senate.

R. A. IRWIN,

WM. C. WOOD,

W. BURNS,

Of the Assembly.

Mr. Burnett made the following report:

#### *Mr. President:*

A minority of the Yuba Delegation, to whom was referred Senate bill No. 249, an Act concerning certain Fees paid by the County of Yuba, have had the same under consideration, and report the same back, and recommend its passage.

W. C. BURNETT.

Report received and bill laid on the table.

Mr. Shaw made the following report:

#### *Mr. President:*

The Committee on Commerce and Navigation, to whom was referred Assembly bill No. 308, an Act to authorize the Construction of Wharves upon Sloughs

and Creeks in certain counties of this State, have considered the same, and recommend its passage after the adoption of the amendment herewith submitted.

W. J. SHAW, Chairman.

Amend as follows—Section one, line 12, strike out the words “two hundred feet in width,” and insert the following: “thirty-five feet on each side of the wharf; and *provided*, That from and after the expiration of twelve years from and after the time of construction of any such wharf or wharves, the same, together with all the rights, titles, and franchises herein granted, shall respectively revert to, and become the property of the county wherein the same or any one or more of them are or may be situated, in trust for the benefit and behoof of the common schools of such county.”

Report accepted, and with bill and amendments placed on calendar.

The following message was received from the Assembly:

The Assembly have adopted a resolution relative to printing the Revenue law in Spanish.

Also concurred in Senate resolution relative to time when Legislative business shall cease, with an amendment.

Also, have passed Senate bill No. 247, “An Act explanatory of, and supplementary to an Act entitled an Act amendatory of, and supplementary to an Act to repeal the several charters of the City of San Francisco, to establish the boundaries of the City and County of San Francisco, and to consolidate the Government thereof,” approved April 18th, 1857.

Also, passed Senate bill 231, “An Act to prescribe the time for electing the Supervisors, School Directors, and President of the Board of Supervisors of the City and County of San Francisco, and to fix their terms of office.”

Also Assembly bill No. 333, “An Act to amend an Act to regulate the estates of deceased persons,” passed May 1st, 1851, and the Acts amendatory thereof.

J. W. SCOBEE,

Assistant Clerk.

April 27th, 1857.

Assembly bill No. 333 was read twice and referred to the Judiciary.

Senate concurrent resolution relative to adjournment, was taken up, with Assembly amendment.

Mr. Mandeville offered the following amendment to Assembly amendment:

“Except business relative to the Civil Fund due the State of California from the General Fund.”

Rejected, and the amendment of the Assembly concurred in.

Assembly concurrent resolution relative to printing laws in Spanish was read and concurred in.

The following message from the Assembly was then read:

Mr President:

I am directed to inform the Senate that the Assembly have this day concurred in Senate amendments to Assembly bill No. 324, an Act concerning certified copies of certain Instruments in Writing.

Also, have passed Assembly bill No. 452, an Act making appropriations to meet deficiencies in appropriations heretofore made to defray the civil expenses of Government from the first day of January, A. D. 1857, until the first day of February, A. D. 1857.

Also, have passed Senate bill No. 171, an Act amendatory of and supplementary to an Act in relation to Personal Mortgages in certain cases, passed May 11th, A. D. 1853.

J. W. SCOBEEY,  
Assistant Clerk.

April 28, 1857.

Assembly bill No. 452, was read twice and referred to the Committee on Finance.

The following message was received from the Assembly:

*Mr. President:*

The Assembly has this day adopted a concurrent resolution relative to a certain enrolled bill, and ask the concurrence of the Senate.

W. CAMPBELL,  
Clerk Assembly.

April 28, 1857.

Assembly Concurrent Resolution was read and concurred in.

Mr. Carpenter moved to adjourn, upon which the ayes and noes were demanded by Messrs. Ferguson of Sacramento, Coffroth and Fiske, and taken with the following result:

AYES.

Messrs. Carpenter, Cosby, Mandeville, Merritt, Norman, Shaw, Soule, Walk-up and Woodworth—8.

NOES.

Messrs. Ashley, Bell, Burnett, Bynum, Chase, Coffroth, Crandall, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Fiske, Goodwin, Johnson of Sacramento, Johnson of El Dorado, McCallum, McGee, Mesick, Soule, Sullivan, Taliaferro and Westmoreland—21.

So the Senate refused to adjourn.

Mr. McCallum in the chair.

Mr. Crandall made the following report:

*Mr. President:*

Your Committee on Enrolled Bills have examined and found correctly enrolled Bill, No. 246, an Act fixing the time of holding the County Court in the County of Placer.

Also, Bill No. 240, an Act to provide the City of Nevada with water and protect the city against fires.

Also, Bill No. 245, an Act to amend an Act entitled an Act to incorporate the City of Nevada.

Also, Bill No. 230, an Act to amend an Act entitled an Act to fix the terms of the District Court in the County of San Mateo.



Also, Bill No. 247, an Act explanatory of, and supplementary to an Act to repeal the several Charters of the City of San Francisco, to establish the boundaries of the City and County of San Francisco, and to consolidate the Government thereof, passed April 18th, 1857.

Also, Bill No. 202, an Act to provide for paying certain equitable claims against the State of California, and to contract a Funded Debt for that purpose.

Also, Bill No. 105, an Act concerning Notaries Public.

Also, Bill No. 141, an Act concerning Corporations.

D. CRANDALL.

On motion of Mr. Mandeville, all matters relating to the State Prison were referred to the Judiciary Committee.

#### SPECIAL ORDER OF THE DAY.

Assembly Bill No. 316, an Act to provide for the sale of the Swamp and Overflowed Lands belonging to this State, was considered.

Mr. Norman moved a call of Senate.

Sustained.

Roll called.

Sergeant at Arms dispatched after absent members.

Mr. Westmoreland moved suspension of call.

Lost.

Mr. Dosh moved that Mr. Crandall have leave of absence, being engaged on committee duty.

Lost.

Mr. Mandeville moved that further proceedings under the call be suspended, upon which the ayes and noes were demanded by Messrs Coffroth, Waite and Melony, and taken with the following result :

#### AYES.

Messrs. Ashley, Carpenter, Chase, Cosby, Ferguson of Sierra, Goodwin, Johnson of El Dorado, Mandeville, McCallum, Melony, Merritt, Norman, Shaw, Soule, Sullivan, Taliaferro, Walkup and Woodworth—18.

#### NOES.

Messrs. Burnett, Bynum, Coffroth, Crandall, De la Guerra, Dosh, Ferguson of Sacramento, Fiske, Johnson of Sacramento, Mesick and Westmoreland—11.

So the call was suspended.

Mr. Carpenter moved the Senate adjourn.

Mr. Coffroth moved call of Senate.

Chair decided the motion out of order.

Mr. Westmoreland appealed from decision of the chair.

Mr. Norman moved the previous question, which was sustained, "Shall the main question be now put?" was put and carried by the following vote :

The ayes and noes being demanded by Messrs. Coffroth, Westmoreland and Ferguson of Sacramento.

AYES.

Messrs. Ashley, Burnett, Carpenter, Chase, Cosby, Crandall, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Goodwin, Johnson of Sacramento, Johnson of El Dorado, McCallum, McGee, Melony, Merritt, Shaw, Soule, Sullivan, Walkup, Westmoreland and Wilson—22.

NOES.

Messrs. Bynum, Coffroth, De la Guerra, Fiske, Mandeville, Mesick, Norman, and Taliaferro—8.

So the main question was ordered put.

Question, shall the decision of the Chair be sustained ? was put, and decision of chair sustained.

Main question being on the motion of Mr. Carpenter to adjourn, the ayes and noes were demanded by Messrs. Carpenter, Walkup and Mandeville, and taken with the following result:

AYES.

Messrs. Ashley, Carpenter, Chase, Dosh, Ferguson of Sierra, Johnson of El Dorado, Mandeville, Melony, Merritt, Norman, Shaw, Soule, Sullivan, Walkup, Woodworth—15.

NOES.

Messrs. Bell, Burnett, Bynum, Coffroth, Cosby, De La Guerra, Ferguson of Sacramento, Fiske, Johnson of Sacramento, McCallum, McGee, Mesick, Taliaferro, Westmoreland—14.

Messrs. Crandall and Goodwin.

So the Senate adjourned.

Approved April 29th, 1857.

R. M. ANDERSON,  
President Senate.

Attest :

GEO. S. EVANS, Secretary Senate.

## IN SENATE.

WEDNESDAY, April 29th, 1857.

Senate met pursuant to adjournment.

President in the Chair.

Roll called.

On motion, the reading of yesterday's Journal was dispensed with.

On motion of Mr. Carpenter, the rules were suspended, and Assembly bill No. 247, an Act for the Relief of James Allen, State Printer, was taken up, with amendments reported by the Committee on Claims on the 24th instant.

Amendments adopted, bill read a third time and passed.

On motion of Mr. Dosh, the following Assembly message was taken up and read :

*Mr. President :*

The Assembly on yesterday adopted a concurrent resolution authorizing the Enrolling Committee to correct and amend a certain enrolled bill, No. 433.

Also, a concurrent resolution, authorizing the Enrolling Committee to correct and amend a certain enrolled bill.

W. CAMPBELL,

April 29th, 1857.

Clerk of Assembly.

Assembly concurrent resolutions were read, and, on motion, concurred in.

Mr. Soule moved to suspend the rules and take up Assembly bill No. 360, an Act supplemental to an Act to provide for Funding the legal and equitable Debt of the city of San Francisco, and for the final redemption of the same, passed May 7th, 1855.

Lost.

Mr. Melony made the following report :

*Mr. President :*

The Committee on Engrossed Bills have examined and find correctly engrossed Senate bill No. 212, entitled an Act to amend an Act to regulate Proceedings in civil cases in the Courts of Justice of this State, passed April 29th, 1851.

A. R. MELONY, Chairman.

April 29th, 1857.

Mr. Crandall, Chairman of the Committee on Enrolled Bills, made the following report :

*Mr. President :*

Your Committee on Enrolled Bills have examined Senate bill No. 248, an Act supplementary to an Act entitled an Act to provide Revenue for the Support of the Government of this State, passed April 25th, 1857, and find the same correctly enrolled.

Also, have presented to the Governor the following named bills for his approval :

Bill 246, " An Act fixing the time of holding the County Court in the county of Placer."

Also, bill 240, " An Act to supply the City of Nevada with Water, and protect the city against fires."

Also, bill 245, "An Act to amend an Act entitled an Act to incorporate the City of Nevada."

Also, bill 230, " An Act to amend an Act entitled an Act to fix the terms of the District Court, in the county of San Mateo."

Also, bill 247, " An Act explanatory of, and supplementary to an Act to repeal the several charters of the City of San Francisco, to establish the boundaries of the City and County of San Francisco, and to consolidate the Government thereof," passed April 18, 1857.

Also, bill No. 202, " An Act to provide for paying certain equitable claims against the State of California, and to contract a funded debt for that purpose."

Also, bill No. 141, " An Act concerning Corporations."

Also, bill No. 248, " An Act supplementary to an Act entitled an Act to provide Revenue for the support of the Government of this State," passed April 25th, 1857.

#### D. CRANDALL.

On motion of Mr. Burnett, the rules were suspended, Assembly bill No. 397, " An Act amendatory of an Act to provide for Funding the Indebtedness of the County of Yuba," approved March 26, 1857, was taken up, read a third time and passed.

On motion of Mr. Bynum, the rules were suspended, and Assembly bill No. 126, " An Act for the relief of James H. Hardy," with amendments reported by the Committee on Claims, on the 24th inst., was taken up, considered in Committee of the Whole, and reported back with amendments.

In Senate—amendments adopted, bill read a third time and passed.

Assembly bill 423, " An Act for the relief of W. B. Thornburg, Sheriff of Yuba County," was indefinitely postponed.

On motion of Mr. Johnson of El Dorado, the rules were suspended, and Assembly bill No. 136, " An Act for the relief of E. B. Carson, Sheriff of El Dorado County," with amendments reported by the Committee on Claims, on the 24th inst., was taken up, amendments adopted, bill read a third time and passed.

Mr. Johnson, of Sacramento, made the following report:

*Mr. President :*

Your committee to whom was referred Assembly bill No. 452, an Act making appropriations to meet deficiencies for the month of January, 1857, have had the same under consideration, report the same back with the following amendments, recommending its passage as amended.

JOSIAH JOHNSON,

• Chairman Finance Committee.

Strike out in section 1, lines 17 and 18, the sum of \$750 and insert \$375;



lines 44 and 45, strike out \$3,000 and insert \$30; in line 55, after the word "dollars" strike out the remainder of the section and add to the section: "To Mr. Fennel, for labor on Insane Asylum in the month of January, 1857, the sum of fourteen hundred dollars."

Report accepted, and with bill, placed on calendar.

Mr. Merritt moved to suspend the rules and take up Assembly bill No. 448, an Act to amend an Act approved April 18, 1857, entitled an Act amendatory of and supplementary to an Act to repeal the several charters of the city of San Francisco to establish the boundary of the city and county of San Francisco, and to consolidate the Government thereof, approved April 19, 1856, upon which the ayes and noes were demanded by Messrs. Coffroth, Merritt and Carpenter, and taken with the following result:

AYES.

Messrs. Bell, Carpenter, Chase, Coffroth, Cosby, Crandall, Dosh, Ferguson of Sacramento, Fiske, Johnson of El Dorado, McGee, Melony, Merritt, Mesick, Norman, Taliaferro and Westmoreland—17.

NOES.

Messrs. Ashley, Burnett, Ferguson of Sierra, Goodwin, Johnson of Sacramento, Mandeville, McCallum, Soule, Sullivan, Waite, Walkup and Woodworth—12.

Mr. Shaw declined voting.

So the motion was lost.

On the motion of Mr. Chase, Assembly bill No. 452, being the deficiency bill reported upon by the Committee on Finance this morning, was taken up, amendments of committee adopted, bill read a third time and passed.

Mr. Norman made the following report:

*Mr. President :*

The Committee on Mines and Mining Interests have had under consideration the following bills, and report the same back to the Senate without expressing any opinion as to their merits.

Senate bill No. 98, an Act to prohibit the location of School Land Warrants on lands in the mineral regions of this State, and to regulate mining in the mineral region.

Also, Assembly bill No. 102, an Act to protect the owners of Growing Crops, Buildings and other improvements in the mining districts of this State, and to repeal a similar Act approved April 25, 1855.

Also, an Act amendatory of an Act entitled an Act to provide for the protection of Foreigners, and to define their liabilities and privileges, passed March 30th, 1853.

W. B. NORMAN,  
Chairman.

JOS. WALKUP,  
G. J. CARPENTER,  
S. H. DOSH,  
J. W. MANDEVILLE,

Report accepted, and bills placed on calendar.

Mr. Ferguson, of Sacramento, offered the following concurrent resolution, which was adopted.

*Resolved*, by the Senate, the Assembly concurring, That the Senate Enrolling Committee be authorized and directed in an Act entitled an Act supplementary to an Act entitled an Act to provide Revenue for the support of the Government of this State, passed April 25th, 1857, to strike out where the same occurs, the words "passed April 25th, 1857," and insert "approved April 29th, 1857."

Mr. Ashley, chairman of the Judiciary Committee, made the following report :

*Mr. President :*

The Judiciary Committee have considered and a majority recommend the indefinite postponement of Assembly bill No. 365, being amendatory to the Practice Act. The bill has come to the Senate too late, and we believe the Senate bill, based upon that introduced by Mr. Merritt, is preferable.

Also, the Committee have partially considered Assembly bill No. 333, concerning Probate Law, but the time has been too short for us to form a decisive opinion, although those of us who have examined it consider it worthy of the favorable consideration of the Senate.

The Committee have also considered Assembly bill No. 339, for leasing the State Prison, and find that the bill proposes to lease to the highest bidder ; a proposition that would be startling in well conducted governments. Our State Prison has been leased two or three times, and as yet the leasing has never been open to fair competition, but the contract has been let to a favorite, or the one who has best besieged the capitol.

The bids submitted to us are as follows, as they average per month :

McCauly, per month.....	\$5,000
Carothers, do .....	3,000
Hyatt, do .....	2,750
Carr, first, do .....	4,000
do second, do .....	3,625
Buckelew, do .....	3,000

The bonds given that they will accept, if the contract is awarded to them, are signed by sureties respectively as follows :

McCauly .....	Wm. Hicks.
Carothers.....	R. Manning, Wm. Martin, Thos. Marshall.
Hyatt.....	Dr. C. M. Hitchcock.
Carr.....	Col. J. C. Hays, Wm. Hart, John Center.
Buckelew.....	Stephen A. Wright, John Cowell.

If any bill were to pass, the names of some of the lower bidders should be inserted, as it would save much to the State ; and we see no reason to fear that there is less good faith in the lower bids than the higher.

But the Committee recommending that Gen. Estell be not paid \$90,000, as they have in another report, do not deem it proper to make a new lease, and so bring on a conflict of authorities.

We believe it too late in the session to legislate wisely on this matter, and believing the next session can much better dispose of this subject, we recommend the indefinite postponement of the bill

All of which is respectfully submitted by the Committee.

D. R. ASHLEY, Chairman.

Report accepted, and, with bills, placed on calendar.

Mr. Ashley, chairman of the Committee on Claims, also made the following report :

*Mr. President :*

The Committee on the Judiciary have considered the bill passed by the Assembly, giving Gen. Estell \$90,000 for the surrender to the State, on the 1st day of June next, of the State Prison and appurtenances, with a release of all his claims on account of the Prison. We find that this \$90,000 will pay Estell, under the present system, until the 1st day of March, 1858, while, if this bill is passed, and the prison leased to other parties, the amount paid them will, up to said 1st of March, be an additional burden on the State

This reasoning is only good for a limited time, but its temporary efficacy arises from the fact that now is the hour of trial for the financial ability of the State, and it is believed if the State can pay its expenses for a year to come, after that it will be comparatively easy to place the Prison and other State Institutions upon a better basis than now. But to do this the greatest temporary economy is needed. If the Prison were leased at \$5,000 per month, which is the highest bid (McCauley's) up to March, 1858, the additional payment required of the State will be \$45,000. Take the lowest bid for the first year, \$3,000 per month, (Buckelew's) and the increased payment over the present is \$27,000.

Now, is it not better to leave further legislation to the next session, since any change proposed will impose so great an immediate burden? The two general appropriation bills, the Act for codifying the Laws, that for purchasing the Supreme Court Reports, and the various others we have already passed, will take every cent to come into the Treasury until March, 1858, and any further appropriation will create a further unconstitutional debt.

The only other mode proposed is to take the Prison, &c., by force from Estell, and prohibit the Courts from settling and protecting his rights, if he has any. This would be lawless, and the attempt would fail, for we cannot by law abolish one's constitutional rights. To do this we must rely on the power of revolution. I presume we are not ready to enact a rebellion.

The bill provides that Estell shall take only \$25,000 per month from the Treasury until the \$90,000 is paid, but his claim for the whole can be filed at once, and the first \$90,000 that comes into the Treasury will go to him, while other creditors and the officers of the State will be unprovided for. The Treasurer yesterday told a member of this Committee that he had \$59 in the General Fund of the plethoric Treasury of this great State. It is easy to appropriate on paper, but \$59 will not pay.

We cannot make the monthly payments proposed to Estell. We ought not to assume new liabilities to other Lessees when we cannot perform them, and we ought not attempt to use all the annual revenues just now for the State Prison, to the ruin of all other claimants against the State.

Under all the circumstances, the Committee recommends the indefinite postponement of the bill.

All of which the Committee respectfully submits.

D. R. ASHLEY,  
Chairman.

Report accepted, and with bills placed on calendar.

On motion of Mr. Chase, the rules were suspended, and Assembly Bill No. 365, an Act to amend an Act entitled an Act to regulate proceedings in civil cases in the Courts of Justice in this State, passed April 29th, 1851, and of the several Acts amendatory thereof, was taken up.

Mr. Chase moved to strike out all but the 4th and 5th sections.

Mr. Rogers stated the following amendments which was adopted:

"Whereas it was determined upon by the general assembly prior to the passage of this act:

That before Mr. Nelson moved the previous question, which was not ordered.

Mr. Coffey moved to lay the bill on the table, upon which the yeas and nays were demanded by Messrs. Chase, Chase and Woodworth, and taken with the following result:

AYES.

Messrs. Ashby, Burdett, Carpenter, Coffey, Crandall, De la Guerra, Fiske, McCallum, Merritt, Moore, Smith, Stone, Vanhook and Woodworth—11.

NOES.

Messrs. Bell, Chase, Clark, Cook, Ferguson of Sacramento, Ferguson of Sierra, Gorman, Johnson of Sacramento, Johnson of El Dorado, Matthews, McKee, Nelson, Rogers, Stone, Sullivan, Walling and Woodworth—11.

Mr. Rogers withdrew voting.

So the motion was not.

Mr. Coffey moved to make the bill the special order for tomorrow at 4 o'clock, which was not laid.

After some debate, Mr. Rogers moved the previous question, which was ordered.

Question being "shall the bill be passed by yeas and nays?" the yeas and nays were demanded by Messrs. Chase, Ashby and Rogers, and taken with the following result:

AYES.

Messrs. Bell, Brown, Carpenter, Chase, Coffey, Crandall, Cook, Ferguson of Sacramento, Ferguson of Sierra, Johnson of Sacramento, Johnson of El Dorado, Matthews, McKee, Nelson, Rogers, Stone, Sullivan, Walling and Woodworth—21.

NOES.

Messrs. Ashby, Burdett, De la Guerra, Fiske, Gorman, McCallum, Merritt, Moore, Sullivan, Stone and Woodworth—11.

So the main question was ordered put.

The main question being the motion of Mr. Chase to strike out all but the fourth and fifth sections, the yeas and nays were demanded by Messrs. Ashby, Chase and Burdett, and taken with the following result:

AYES.

Messrs. Bell, Carpenter, Chase, Coffey, Crandall, Cook, Ferguson of Sacramento, Ferguson of Sierra, Johnson of Sacramento, Johnson of El Dorado, Matthews, McKee, Moore, Nelson, Rogers, Stone, Sullivan, Walling, White, West, Woodland and Woodworth—29.



## NOES.

Messrs. Ashley, Burnett, Coffroth, De la Guerra, Fiske, Goodwin, McCallum, Merritt, Mesick and Sullivan—10.

Messrs. Bynum and Walkup declined voting.

So the motion prevailed.

Mr. Ashley offered the following amendment, which was adopted.

SECTION 3. This Act shall take effect on the first day of July next, and shall not apply to suits pending at the time of this taking effect.

Mr. Ferguson moved to suspend the rules that he might introduce a resolution, upon which the ayes and noes were demanded, by Messrs. Goodwin, Norman and McCallum, and taken with the following result :

## AYES.

Messrs. Bell, Burnett, Bynum, Chase, Coffroth, Cosby, Crandall, De la Guerra, Dosh, Ferguson of Sacramento, Ferguson of Sierra, Goodwin, Johnson of Sacramento, Johnson of El Dorado, Mandeville, Melony, Merritt, Mesick, Norman, Soule, Sullivan, Taliaferro, Waite, Walkup, Westmoreland and Woodworth—26.

## NOES.

Messrs. Carpenter, Fiske, McCallum and Shaw—4.

So the rules were suspended and the following offered.

*Resolved*, That the Secretary, Assistant Secretary and Journal Clerk of the Senate be, and they are hereby allowed forty days each after the adjournment of the Legislature, in which to write up and turn over to the Secretary of State, as required by law, the journals and other work of the Senate, and the Controller of State is hereby authorized and directed to draw his warrant on the Treasurer of State, payable out of the contingent fund of the Senate, for such extra service, at the same rate now received.

Mr. Carpenter moved to strike out "forty" and insert "twenty," which was lost.

Mr. De la Guerra moved to strike out "forty" and insert "thirty."

Mr. Mesick moved the previous question, which was sustained.

Question, Shall the main question be now put ? was put and carried.

The main question being on the motion of Mr. De la Guerra to strike out and insert, was put and carried, and the resolution as amended adopted.

Mr. Shaw, by leave, introduced an Act authorizing the Board of Supervisors of the City and County of San Francisco, to audit and allow claims for lighting said city with Gas, which was read first and second times, rules further suspended, bill considered engrossed, read a third time and passed.

Mr. Melony offered the following resolution:

*Resolved*, That the Controller of State is hereby authorized and instructed to audit and allow the Sergeant-at-Arms and Assistant, their per diem for ten days, from the 30th day of April, A. D. 1857.

Adopted.

Mr. Walkup moved to reconsider the vote by which the resolution was adopted.

Carried.

Mr. Walkup then moved to strike out the Assistant.

Carried.

Mr. Norman moved to strike out "ten," and insert "five."

Lost.

The resolution as amended was then adopted.

Mr. Woodworth moved to suspend the rules, and take up Assembly bill No. 361, "An Act supplemental to, and amendatory of an Act entitled an Act to provide the mode of drawing Grand Jurors and Trial Jurors, in the City and County of San Francisco," passed April 2d, 1857.

Upon which, the ayes and noes were demanded by Messrs. Woodworth, Soule, and Sullivan, and taken with the following result:

#### AYES.

Messrs. Ashley, Bell, Carpenter, Ferguson of Sierra, Fiske, Goodwin, Johnson of El Dorado, Mandeville, Shaw, Soule, Sullivan, Waite, Walkup, Woodworth—14.

#### NOES.

Messrs. Burnett, Bynum, Chase, Cosby, Crandall, De La Guerra, Dosh, Ferguson of Sacramento, Johnson of Sacramento, McGee, Melony, Merritt, Taliaferro, Westmoreland—14.

Messrs. McCallum and Norman declined voting.

So the motion was lost.

Mr. McCallum moved to reconsider the vote by which the resolution offered by Mr. Ferguson of Sacramento, was adopted—allowing the Secretary, Assistant Secretary and Journal Clerk, extra time.

Mr. Melony moved to indefinitely postpone the motion to reconsider; upon which the ayes and noes were demanded by Messrs. McCallum, Fiske, and Shaw, and taken with the following result:

#### AYES.

Messrs. Ashley, Bell, Bynum, Chase, Cosby, Crandall, De La Guerra, Dosh, Ferguson of Sacramento, Johnson of Sacramento, Mandeville, McGee, Melony, Merritt, Mesick, Soule, Sullivan, Taliaferro, Waite, Walkup, Westmoreland, Woodworth—22.

Messrs. Burnett, Carpenter, Ferguson of Sierra, Fiske, Goodwin, Johnson of El Dorado, McCallum, Norman, Shaw—9.

So the motion to indefinitely postpone the motion to reconsider was carried.

President in the chair.

The hour of 12 having arrived, the President announced that all Legislative business would cease, except such as was provided for in concurrent resolution of both Houses, passed April 28th, 1857.

On motion, the Senate took a recess till one o'clock.

The recess having expired, the Senate was called to order by the President.

Mr. Crandall, Chairman of the Committee on Enrolled Bills, made the following report:

*Mr. President:*

The Committee on Enrolled Bills have examined and find correctly enrolled, Senate bill No. 171, substitute for Senate bill No. 58, "An Act amendatory of, and supplementary to an Act in relation to personal mortgages in certain cases," passed May 11th, A. D. 1853.

Senate Bill No. 143, an Act concerning Sheriffs.

Also, Bill 169, an Act to amend an Act to create a Board of Supervisors in the counties of this State, and to define their duties and powers.

Also, Bill No. 188, an Act to legalize acknowledgments taken by the Recorder and Deputy Recorder of Monterey.

Also, Bill No. 226, an Act to authorize Priscilla H. Denham to sell certain real estate belonging to her minor children.

Also, Bill No. 231, an Act prescribing the time for electing the Supervisors, School Directors, and President of the Board of Supervisors of the City and County of San Francisco, and to fix their terms of office.

Also, Bill No. 235, an Act making appropriations for the support of the Civil Government of the State for the ninth fiscal year commencing on the first day of July, A. D. 1857, and ending on the 30th day of June, A. D. 1858, inclusive.

Also, Bill No. 236, an Act making appropriations for the support of the Civil Government of the State for the remainder of the eighth fiscal year, commencing on the first day of February, A. D. 1857, and ending on the 30th day of June, 1857, inclusive.

Also, Bill No. 250, an Act authorizing the Judge of the Ninth Judicial District, to hold a term of the District Court in and for the County of Tehama.

Also, have examined and found correctly enrolled, the following concurrent resolutions, to-wit:

Resolution relative to the time when legislative business shall cease.

Resolution relative to the printing and distributing the laws in relation to the revenue of this State, passed at the present session of the Legislature.

Resolution relative to altering an Act entitled an Act supplementary to an Act entitled an Act to provide revenue for the support of the Government of this State, passed April 25, 1857.

D. CRANDALL.

The following message was received from the Assembly:

*Mr. President :*

The Assembly have concurred in Senate amendments to Assembly bill No. 452, an Act making appropriations to meet deficiencies from the first of January, 1857, to first February, 1857, with the exception of the amendment to section 1, line 55, in which the House non-concur and ask the Senate to recede from that amendment.

Also, adopted Senate amendments to Assembly bill No. 326.

W. CAMPBELL, Clerk Assembly.

On motion, the Senate receded from the amendment to Assembly bill No. 452.

Mr. Crandall made the following report:

*Mr. President :*

The Committee on Enrolled Bills have presented to the Governor for his approval, Senate bill No. 171, an Act amendatory of and supplementary to an Act in relation to Personal Mortgages in certain cases, passed May 11, A. D. 1853.

Also, bill No. 143, an Act concerning Sheriffs.

Also, bill No. 169, an Act to amend an Act to create a Board of Supervisors in the Counties of this State, and to define their duties and powers.

Also, bill No. 188, an Act to legalize Acknowledgments taken by the Recorder and Deputy Recorder of Monterey.

Also, bill 226, an Act to authorize Priscilla H. Denham to sell certain Real Estate belonging to her minor Children.

Also, bill No. 231, an Act prescribing the time for electing the Supervisors, School Directors and President of the Board of Supervisors of the city and county of San Francisco, and to fix their terms of office.

Also, bill 235, an Act making appropriations for the Support of the Civil Government of the State for the ninth fiscal year commencing on the first day of July, A. D. 1857, and ending on the 30th day of June, A. D. 1858, inclusive.

Also, bill 236, an Act making appropriations for the Support of the Civil Government of the State for the remainder of the eighth fiscal year commencing on the first day of February, A. D. 1857, and ending on the 30th day of June, A. D. 1857, inclusive.

Also, bill No. 250, an Act authorizing the Judge of the Ninth Judicial District to hold a term of the District Court in and for the county of Tehama.

Also, bill No. 173, an Act to provide Revenue for the Support of the Government of this State.

Also, have examined and found correctly enrolled Senate bill No. 173, an Act to provide Revenue for the Support of the Government of this State.

D. CRANDALL, Chairman.

The Journals of yesterday being read for approval, Mr. McCallum moved to amend the Journals, by striking therefrom all in regard to his point of order while Mr. Merritt was in the chair.

Objections being made, after much discussion, the question being put, the ayes and noes were demanded by Messrs. McCallum, Merritt and Taliaferro, and taken with the following result:

AYES.

Messrs. Ashley, Burnett, Bynum, Carpenter, Goodwin, Johnson of Sacramento, McCallum, Merritt, Shaw, Soule, Sullivan, Waite, Walkup and Woodworth—14.



## NOES.

Messrs. Bell, Crandall, Ferguson of Sacramento, Mandeville, Melony, Norman and Westmoreland—7.

Messrs. Chase, Dosh, Johnson of El Dorado, and Taliaferro, declined voting.

So the motion was carried.

The following message was received from His Excellency the Governor:

EXECUTIVE DEPARTMENT,  
Sacramento, April 29, 1857. }

*To the Senate of California :*

On the 28th inst. I approved an Act to provide for paying certain equitable claims against the State of California, and to contract a funded debt for that purpose.

I have also this day approved the following Acts:

An Act to amend an Act entitled an Act to incorporate the City of Nevada, approved April 19, 1856.

An Act explanatory of, and supplementary to, an Act entitled an Act amendatory of, and supplementary to, an Act to repeal the several Charters of the City of San Francisco, to establish the boundaries of the City and County of San Francisco, and to consolidate the Government thereof, approved April 19th, 1856, passed April 18th, 1857.

An Act to amend an Act entitled an Act to fix the terms of the District Court in the County of San Mateo, passed January 17th, 1857.

An Act to supply the City of Nevada with water, and to protect the city against fires.

An Act to authorize the acknowledgements taken by the Recorders and their Deputies in the Counties of Monterey and Los Angeles.

An Act to authorize Priscilla H. Denham to sell certain real estate belonging to her minor children.

An Act to amend an Act entitled an Act concerning Sheriffs, passed April 29th, 1851.

An Act authorizing the Judge of the Ninth Judicial District to hold a special term of the District Court in and for the County of Tehama.

An Act to amend an Act entitled an Act to create a Board of Supervisors in the Counties of this State, and to define their duties and powers.

J. NEELY JOHNSON.

The following messages were received from the Assembly:

*Mr. President :*

The Assembly has to-day adopted the report of the Committee of Conference on Senate bill No. 248.

W. CAMPBELL,  
Clerk Assembly.

April 28th, 1857.

Also the following:

*Mr. President:*

The Assembly has concurred in Senate amendments to Assembly bill No. 247, "An Act for the relief of Jas. Allen, State Printer."

Also, have adopted Senate Concurrent Resolution, relative to a certain enrolled bill.

Also, have concurred in Senate amendments to Assembly bill No. 326, "An Act for the relief of Jas. Hardy."

Also, have concurred in Senate amendments to Assembly bill No. 136, "An Act for the relief of E. D. Carson, Sheriff of El Dorado County."

Also, have passed Assembly bill No. 133, "An Act to audit and allow certain claims."

Also, have passed Assembly bill No. 453, "An Act concerning the Civil Fund."

April 29, 1857.

W. CAMPBELL,  
Clerk of Assembly.

On motion, the Senate adjourned.

Approved April 30, 1857.

R. M. ANDERSON,  
President of the Senate.

Attest:

GEO. S. EVANS, Secretary Senate.

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## IN SENATE.

THURSDAY, April 30th, 1857.

Senate met pursuant to adjournment.

The President in the Chair.

Roll called.

Journals of yesterday read and approved.

Mr. Bell in the Chair.

Mr. Chase rose to a question of privilege, relative to remarks which passed between the Senator from Tuolumne (Mr. Coffroth,) and himself on yesterday, stating that they were made under a misconception of the remarks of Mr. Coffroth, and withdrawing any offensive remarks made by him.

Mr. Coffroth also, rose and made an explanation relative to the same subject, also withdrawing any offensive remarks made by him.

Mr. Bell in the Chair.

Mr. Coffroth offered the following resolution:

*Resolved*, By the Senate, (the Assembly concurring,) That the 15th Joint Rule be rescinded.

Mr Walkup moved to lay the resolution on the table, which was carried.

On motion of Mr. Coffroth, H. H. Melone had leave to withdraw certain papers and documents.

On motion, Mr. Dosh had leave to withdraw certain papers relative to Tehama and Shasta counties.

On motion, Mr. Taliaferro had leave to withdraw certain papers of Mr. Smiley, relative to State Prison affairs.

Mr. Norman offered the following resolution:

*Resolved*, That James D. Darden and A. H. Gillespie, assistant Enrolling Clerks of the Senate, each be allowed two days' extra pay for night labor performed enrolling the Revenue bill.

Adopted..

On motion, Mr. Burnett had leave to withdraw the papers of Mr. Foley, relating to certain claims.

The following message was received from the Assembly:

*Mr. President:*

I am directed to inform the Senate that the Assembly to-day adopted a concurrent resolution, relative to Assembly Enrolled bill No. 397.

April 30, 1857.

W. CAMPBELL,  
Clerk of Assembly.

On motion, the Assembly concurrent resolution was concurred in

Mr. De La Guerra made the following report:

*Mr. President:*

The Joint Committee appointed to select the laws of 1857, to be translated and published in Spanish, report that the same have been by them selected, and a list of the same filed with the Secretary of State.

All of which is respectfully submitted.

PABLO DE LA GUERRA,  
D. R. ASHLEY,  
S. A. MERRITT,  
Senate Committee.  
W. J. GRAVES,  
BENJAMIN H. MILES,  
J. LANCASTER BRENT,  
Assembly Committee.

Mr. Coffroth presented the following resolution:

*Resolved*, That the thanks of the Senate be tendered to the Hon. Robert M. Anderson, Lieutenant Governor, and President of the Senate, for the impartial and dignified manner in which he has presided over the deliberations of the Senate during the present session.

Unanimously adopted.

The following message was received from the Assembly:

*Mr. President :*

The Assembly has this day adopted a resolution suspending the 15th Joint Rule of the House.

W. CAMPBELL,  
Clerk of Assembly.

April 30, 1857.

Resolution concurred in.

Mr. Norman offered the following resolution:

*Resolved*, That the Sergeant-at-Arms is hereby directed to present his statement forthwith, of the Postage and Express account, of each Senator, that has accrued during the session.

Adopted.

Mr. Ashley offered the following resolution:

*Resolved*, That the Controller of State is hereby authorized and directed to draw his warrant on the State Treasury in favor of N. Moritz, Assistant Enrolling Clerk, for services rendered from March 1st to March 19th, inclusive.

On motion, the words "services rendered from March 1st, to March 19th, inclusive," were stricken out, and the words "one day's extra services" were inserted, and the resolution, as amended, adopted.

Mr. Bell offered the following resolution:

*Resolved*, That the thanks of this Senate be hereby unanimously tendered to George S. Evans, Secretary of the Senate, to Tro. Ward, Assistant Secretary, and to Thos. N. Cazneau and A. M. Lockett, Clerks to the Secretary, for the indefatigable, prompt and correct manner in which they have performed their arduous duties, unparalleled, in the opinion of this body, in the history of California legislation.

The following message was received from the Governor:

STATE OF CALIFORNIA, EXECUTIVE DEPARTMENT, }  
Sacramento, April 30th, 1857. }

*To the Senate of California:*

On the 29th inst., I gave my approval to an Act to authorize the Board of Supervisors of the city and county of San Francisco, to provide for the compensation due the Board of Examiners of said city.

Also, an Act amendatory of and supplementary to an Act in relation to personal mortgages in certain cases, passed May 11th, A. D. 1853.

Also, an Act to provide Revenue for the support of the Government of this State.

Also, an Act to prescribe the time for electing the Supervisors, School Directors and President of the Board of Supervisors of the city and county of San Francisco, and to fix their term of office.

I have this day approved an Act concerning Notaries Public.

Also, an Act supplementary to an Act entitled an Act to provide Revenue for the support of the Government of this State, approved April 29th, 1857.

Also, an Act making appropriations for the support of the Civil Government of the State for the remainder of the eighth fiscal year, commencing on the first day of February, A. D. 1857, and ending on the 30th day of June, inclusive, of the same year.



Also, an Act making appropriations for the support of the Civil Government of the State for the ninth fiscal year commencing on the first day of July, A. D. 1857, and ending on the 30th day of June, A. D. 1858, inclusive.

J. NEELY JOHNSON.

Mr. Coffroth offered the following resolution :

*Resolved, by the Senate, the Assembly concurring,* That the resolution to adjourn be rescinded so far as to make the final adjournment at half-past 12 o'clock P. M. this day, for the purpose of receiving messages from the Governor.

Laid on the table.

Mr. Waite moved that a Joint Committee of three from each House be appointed to wait upon the Governor, and inform him that the Legislature were now ready to adjourn *sine die*.

Adopted.

Chair appointed Messrs. Waite, Coffroth and De La Guerra, on the part of the Senate.

Mr. Taliaferro offered the following resolution :

*Resolved,* That the thanks of this Senate are tendered to John McClenchy for the efficient manner with which he has served us as door-keeper of this body.

Adopted.

The following message was received from the Assembly :

Mr. President :

The Assembly have appointed Messrs. Hall, Stevenson and Shepard a Joint Committee on the part of the House to wait upon the Governor.

April 30, 1857.

J. W. SCOBEEY,  
Assistant Clerk.

Mr. Westmoreland offered the following resolution :

*Resolved,* That the thanks of the Senate be, and are hereby tendered to Senator S. H. Dosh for the faithful and impartial manner in which he has discharged the duties of President pro tem. of the Senate.

Adopted.

The following message was received from the Assembly :

Mr. President :

I am directed to inform the Senate that the Assembly are now ready to adjourn *sine die*.

April 30, 1857.

J. W. SCOBEEY,  
Assistant Clerk.

On motion the resolution extending the time of adjourning *sine die* to half-past 12 o'clock, was taken from the table.

Mr. Ashley offered the following substitute :

That the adjournment of the Legislature this day do not take place until half-past 12 o'clock P. M. of this day, and no business shall be done of a Legislative character from this time except messages from the Governor, and the Legislature shall adjourn precisely at that time.

Adopted.

President in the Chair.

On motion of Mr. Ashley, leave was granted to withdraw from the archives of the Senate all bonds relating to the State Prison.

Mr. Carpenter offered the following resolution :

*Resolved*, That the thanks of this body be unanimously tendered to the Official Reporter, William Coates, for the faithful and efficient manner in which he has discharged his arduous duties as such officer.

Adopted.

The following message was received from the Assembly :

Mr. President :

The Assembly has adopted Senate concurrent resolution relative to adjournment.

April 30, 1857.

W. CAMPBELL,  
Clerk of Assembly.

Mr. McCallum offered the following resolution :

*Resolved*. That the thanks of the Senate be tendered to Alexander Hunter, Sergeant-at-Arms of the Senate, for the efficient and courteous manner in which he has discharged the duties of his office.

The hour of half-past 12 o'clock P. M. having arrived, the President announced the Senate adjourned *sine die*.

Approved April 30, 1857.

R. M. ANDERSON,  
President Senate.

Attest :

GEORGE S. EVANS, Secretary.

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- “ Judiciary Committee on S. B. 186, 623.
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- “ Committee on Claims on A. B. 236, 634.
- Report on A. B. 160, 636.
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- Report of Special Committee on A. B. 369, 753.
- “ Committee on Enrollment on S. B. 208, 788.
- “ Committee on Claims on A. B. 136, 422, 788.
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## BILLS, SENATE.

No.	TITLE.	Reported.	Proceedings in Com. of the Whole.	Passed Senate.	Passed Assembly.	Further Proceedings.
1	An Act to recommend to the Electors to vote for or against a Convention to Revise and Change the Constitution of this State. Shaw, 74.	153	266, 519	520	536	353, 480 517
2	An Act to fix the Time for holding the Terms of the District Court of the Ninth Judicial District of this State. Dosh, 74.	79		79		139
3	An Act to fix the Terms of the District Court in the County of San Mateo. Shaw, 79. Referred to San Francisco Delegation.	168 79, 90	109	79		110
4	An Act for the better Protection of Mining Interests. McCallum, 84.	62	130	135, 687 724, 728		172, 255 256, 761 762, 763 765



## BILLS, SENATE.

No.	TITLE.	Reported.	Proceedings in Com'te of the Whole.	Passed Senate.	Passed Assembly.	Further Proceedings.
5	An Act to provide for and limit the Expenditures for Mail and Express Matter of the Legislature. Committee on Contingent Expenses, 91.					
6	An Act to amend An Act entitled An Act to Regulate the Interest of Money, passed March 13th, 1850. Bell, 91.	130	183, 184			
7	An Act to Protect from Forced Sale a certain portion of the Homestead and other Property of all Heads of Families. Shaw, 99.	305, 318 393	338, 375 541	378	421	306, 318 334, 376 377
8	An Act to Legalize certain Conveyances. Tilford, 105.	507		587	626	
9	An Act granting to the Alameda Turnpike Company certain Overflowed Lands in Alameda County. Bell, 106.		355			359, 384
10	An Act to further extend Act concerning Corporations, passed April 22, 1850. Shaw, 107.	111	121	112		
11	An Act to Legalize certain Records in Solano County. Bynum, 107.	171	481	481, 507	583	461
12	An Act to Change the Name of Edward C. Higgenbottom to Edward Compton Howard. Westmoreland, 112.	284	284	149		
13	An Act to limit the Time for Presentation of Claims against Counties, and for receiving Payment for the same. Walkup, 112.	173		181, 374	173, 549	
14	An Act concerning Insolvent Debtors, and Attachments against their Property. Shaw, 113.					
15	An Act fixing the Time of holding the several Courts authorized to be held by the County Judge of Tehama County. Dosh, 113.			121	176	113
16	An Act to amend An Act entitled An Act to provide for the Sale of Swamp and Overflowed Lands belonging to the State, approved April 28th, 1855. Johnson, Sacramento, 127.	136	138			148, 149 167, 168 171, 632
17	An Act amendatory of and supplementary to An Act entitled An Act to create the Office of State Printer, and to define the Duties and Compensation thereof, and to provide for the Time and Manner of Elections, passed May 1, 1854. Substitute A. B. 202. Burnett, 127.	327	509	528		320, 390 501, 668 679
18	An Act to amend An Act entitled An Act to regulate Proceedings in Civil Cases in the Courts of Justice of this State, passed April 29th, 1851. Carpenter, 127.	148	148	148		

## BILLS, SENATE.

No.	TITLE.	Reported.	Proceedings In Course of the Whole.	Passed Senate.	Passed Assembly.	Further Proceedings.
19	An Act concerning the Receipts and Expenditures of the State. Ashley, 127.	219	130	135	135	202, 172
20	An Act supplementary to An Act concerning Persons in Custody under Sentence of Imprisonment, passed April 22d, 1850. Ashley, 127.	187, 168	181, 182	182		535, 564 565
21	An Act to fix the Compensation of the County Judges and Supervisors of the County of Tehama. Dosh, 128.	145	149	171	208	149
22	An Act to repeal the Charter of the Town of El Dorado. Committee El Dorado Delegation, 131.	131		131	181	
23	An Act for the Relief of Jotham S. Marston, late Treasurer of Alameda County. Bell, 132.	146		149	193	172
24	An Act to amend An Act entitled An Act to provide for the formation of Corporations for certain purposes, approved April 14th, 1853. Norman, 132.	252				303, 308 310
25	An Act to amend An Act entitled An Act concerning Corporations, passed April 22d, 1850. Norman, 132.	252, 253				207, 303 308, 310
26	An Act to amend Section 6th of An Act entitled An Act regulating the Duty of Harbor Master of the Port of San Francisco, passed May 1st, 1852. Tilford, 132.					
27	An Act regulating the Duties of Dock Master of San Francisco. Shaw, 132.					
28	An Act concerning Public Taxes and Assessments, and Sales of Property made therefor. Shaw, 132.					105
29	An Act amendatory of and supplementary to An Act entitled An Act to authorize the Board of Supervisors of Placer County to levy a Special Tax, approved March 11th, 1856. Walkup, 136.	149	149	149	193	
30	An Act for the Relief of Thomas R. Consell. Bell, 136.		140			140
	An Act concerning the Testimony of Children, and other than white persons. Shaw, 136.		231, 236			
	An Act to provide for the working of Mines or Minerals found in lands lying or being within the grants heretofore made by the Crown of Spain, or the Supreme Government of Mexico to private persons, prior to the Treaty of adalupe Hidalgo. Dosh, 141.	274, 275				274, 275 281, 340 346

## BILLS, SENATE.

No.	TITLE.	Reported.	Proceedings in Com'e of the Whole.	Passed Senate.	Passed Assembly.	Further Proceedings.
33	An Act, in addition to, and explanatory of the Act for Securing Liens to Mechanics and others; approved April 19, 1856. Judiciary Committee.	198, 199		150		171, 333 334, 356
34	An Act to authorize the Administrator and Administratrix of Archibald A. Ritchie, deceased, to sell the Real Estate of their intestate Estate. Bynum, 147.	151	167	167	189	195
35	An Act to remunerate J. W. Denver for his services as Commissioner of the California War Debt. Taliaferro, 147.					282, 335 385
36	An Act concerning the Board of Supervisors of Placer County. Walkup, 147.	164			193	
37	An Act to exempt Mining Claims and Mining Implements from Forced Sale in certain cases. Norman, 147.	371	382	382		
39	An Act to amend an Act entitled, An Act to regulate the Settlement of the Estate of Deceased Persons, passed May 1st, 1857, and the Act amendatory thereof. Tilford, 166.	192, 306 388	321, 368 369	369, 393		329, 334 338, 358 368
40	An Act to amend an Act to provide Revenue for the Support of the Government of this State, passed May 15th, 1854. Chase, 166.					
41	An Act to amend an Act entitled An Act to incorporate the City of Nevada, approved April 19th, 1856. Chase.	187	181	181	204	181
42	An Act concerning the Salary of the County Judge of the County of San Francisco. Tilford, 170.	175, 176	176	176	230	236, 176 186
43	An Act to fix the Compensation of the District Attorney for the County of Siskiyou, and to repeal in part the First Section of an Act, entitled An Act to fix the Compensation of the District Attorneys for the several Counties of this State. Crosby, 170.	18, 187 199	188	201	236	188
44	An Act to amend an Act entitled An Act to protect Owners of Growing Crops, Buildings, and other Improvements in the Mining Districts of this State, approved April 25th, 1855. Norman, 177.	207	209, 214	215	374	261
45	An Act to amend an Act entitled An Act fixing the Age of Majority of Males and Females in this State, passed May 10th, 1854. Furguson, 171.	187	203	619		188, 197 618
46	An Act concerning Roads and Highways. Johnson, El Dorado, 177.				532	

## BILLS, SENATE.

No.	TITLE.	Reported.	Proceedings in Com. of the Whole.	Passed Senate.	Passed Assembly.	Further Proceedings.
47	An Act for Relief of Richard Cole. Bell, 177.		211	211	236	
48	An Act to authorize the Controller of State, to issue Duplicate Interest Coupons of the State of California to Mebries Driesenburg & Co., of San Francisco. Tilford, 177.	285	289	289, 198	617	289, 198
49	An Act to provide for taking the sense of the People of Tehama County upon the question of Removal of the County Seat thereof, from the Town of Tehama to the Town of El Dorado. Dosh, 178.	191	230	191	230	
50	An Act to authorize Persons to change their Names. Judiciary Committee, 181.	187		188		
51	An Act to authorize the Present Acting Sheriff of the City and County of San Francisco to enforce the Payment of Delinquent Taxes, and to Legalize the Assesments and Rate of Taxation thereof. Tilford, 183.	187				191, 196
52	An Act to appropriate ——— dollars for the Payment of Salaries of Officers and Attaches of the Senate. Mandeville, 184.	186	186	186		197, 353 354
53	An Act to Legalize the Present Indebtedness of the State of California, and to Provide for its Payment. Coffroth, 184.					339, 340 469, 500 639
54	An Act to grant the right to construct a Bridge across the Sacramento River, between the City of Sacramento and the Town of Washington. Furguson, Sacramento, 184.	253	402, 403	403	522	255, 289 335, 411 523
55	An Act to authorize the Administrators of the Estate of William Knight to convey certain Lands therein named. Furguson, Sacramento, 185.	262				265
56	An Act supplementary to and amendatory of an Act, concerning the Debt and Current Expenses of the County of Monterey, and to Provide for the Funding and the Payment of the same, approved April 19th, 1856. Ashley, 188.	221	223	223	332	
57	An Act concerning County Judges. Bynum, 188.	235	235	235		239, 235 256, 258 260 416
58	An Act concerning Chattel Mortgages in this State. Carpenter, 190.	395				
59	An Act for the Relief of James Kenick. Mandeville, 194.					
60	An Act for the relief of John S. Clark. Mandeville, 194.	201	201			202



## BILLS, SENATE.

No.	TITLE.	Reported.	Proceedings in Com'e of the Whole.	Passed Senate.	Passed Assembly.	Further Proceedings.
61	An Act to Divide the State into Congressional Districts, according to an Act of Congress approved June 23d, 1842. Mandeville, 194.	561	594	595		
62	An Act to authorize the Board of Supervisors in and for the County of Marin, to levy a Special Tax. Taliaferro, 194.	194	194	234, 194		234, 237
63	An Act relating to the Board of Supervisors of Santa Barbara County. De la Guerra, 194.	256		256	374	256, 258 260, 322 356, 348 383
64	An Act to amend an Act entitled An Act to amend the fourteenth section of an Act entitled An Act concerning the Office of County Treasurers, passed March 27th, 1850; passed May 17th, 1853. Norman, 194.	373				
65	An Act for the Relief of Robert G. Crozier. Committee on Claims, 195.	195	202, 203			282
66	An Act supplemental to An Act to provide for Funding the Legal and Equitable Debt of the City of San Francisco, and for the Final Redemption of the Same, approved May 7th, 1855. Tilford, 201.	508				201, 542 558
67	An Act to authorize Samuel Plumer Sempson to be admitted to Practise as Attorney and Counselor at Law. Burnett, 211.		559	588		201, 211
68	An Act to provide for the Arrest and Suppression of Bands of armed Banditti in the Counties of Los Angeles and San Bernardino. Dosh, 205.	205	205	205		
69	An Act to release B. S. Gray from Liability to the State of California on certain Bonds. Ferguson, 208.		231			231, 208
70	An Act for the Relief of James Penney. Cofroth, 209.					209
71	An Act concerning Official Bonds. Waite, 209.	373	295, 383	383	583	317, 209 413 209
72	An Act to pay additional Compensation to A. J. F. Phelan, for Services as Clerk of the Commissioners of the War Debt. Mandeville, 209.					
73	An Act concerning Delinquent Taxes in the County of Sacramento. Johnson, 212.		231, 226	232		225, 212
74	An Act for the establishing of the First Day of the Week as a Day of rest from Secular Employment. Bell, 210.	294, 371				294, 313 378, 385
75	An Act to authorize the Governor to grant Pardons to certain Individuals. Taliaferro, 213.	235	235			235

## BILLS, SENATE.

No.	TITLE.	Reported.	Proceedings in Course of the Whole.	Passed Senate.	Passed Assembly.	Further Proceedings.
76	An Act to abolish the Office of Directors of the State Prison. Waite, 213.	221		386	415	221, 213 223, 282 293, 333 223, 221
77	An Act to repeal An Act concerning the Escape of Convicts of the State Prison, approved April 10th, 1855. Taliaferro, 217.	221	257			
78	An Act concerning the Harbor-Master of the Port of San Francisco. Shaw, 218.		222, 218	222		221. 363 367
79	An Act to amend an Act entitled An Act to Organize the County of Plumas, passed March 18th, 1854. McGee, 219.	287	322	322		287, 289
80	An Act to amend the sixty-seventh section of an Act entitled An Act to regulate Proceedings in Criminal Cases, passed May 1st, 1851. Waite, 219.		219	219, 220		
81	An Act supplementary to An Act defining the Time of commencing Civil Actions in certain Cases, passed April 2d, 1855. Bell, 222.	262				265
82	An Act to reduce the Salary of the County Judge of El Dorado County. Fiske, 223.	233	235	235	328, 374	223, 333 355, 357
83	An Act to compensate George McGee and Mike Flaherty for Services rendered in carrying Passengers and Freight to and from San Francisco and the State Prison. Taliaferro, 231.					
84	An Act to compensate William Clark for Services rendered in carrying Passengers and Freight to and from San Francisco and the State Prison. Taliaferro, 231.					
85	An Act to authorize the Board of Supervisors of Nevada County to levy a Special Tax for County Purposes. Chase, 234.	273, 286	289	289	732	283
86	An Act amendatory of and supplementary to An Act to provide for Funding the Outstanding Debt of the City of Oakland, and to prevent the Creation of New Debts by said City, passed April 20th, 1855. Bell, 234.	262, 289	289	289		265
87	An Act to authorize the Construction of certain Wharves upon the Straits of Carquines, and certain Turnpike Roads from the Same. Wilson, 234.	295				313
88	A Bill to encourage Science, by granting to the California Academy of Natural Sciences a quantity of Swamp and Overflowed Lands. Shaw, 236.	354				359
89	An Act concerning Roads and Highways. Maloney, 254.					254, 532

## BILLS, SENATE.

No.	TITLE.	Reported.	Proceedings in Com <sup>e</sup> of the Whole.	Passed Senate.	Passed Assembly.	Further Proceedings.
90	An Act to amend an Act entitled An Act to Fund the Debt of the County of Calaveras and to provide for the Payment thereof, approved May 3d, 1852. Norman, 259.		263	263		
91	An Act to amend the forty-fifth section of An Act concerning Officers. Shaw, 260.	260	260	260	261	260
92	An Act for the Relief of W. M. Fanning. Maloney, 260.					
93	An Act amendatory of An Act to provide for the Protection of Foreigners and to define their Liabilities and Privileges, passed March 13th, 1853; passed May 13th, 1854. Mandeville, 264.	264	264	264		264
94	An Act granting certain Swamp and Overflowed Lands to the City of Sacramento. Johnson, 264.	355	359	359	535	
95	An Act to authorize the Executor, or Administrator of the Estate of Joseph Soto de Stokes, deceased, to sell the Real Estate of said deceased at public or private sale. Ashley, 265.	294	317	317, 322	498	317, 325 329, 332 498
96	An Act to grant to the Sheriff of Tuolumne County additional Time to make his Annual Settlement for Collection of State and County Taxes for the year 1856. Coffroth, 264.	269	269	270	324	270
97	An Act to amend an Act entitled An Act concerning the Board of Supervisors of Placer County, approved Feb. 4th, 1857. Dosh, 270.	270	270	270	388	485, 389 412, 468
98	An Act to Prohibit location of School Land Warrants in Mineral region of this State, and to regulate Mining in mineral region. Chase, 281.	497				604
99	An Act to amend an Act entitled An Act to Create a Board of Supervisors in the Counties of this State, and to define their Duties and Powers, approved March 20th, 1855. Crandall, 283.	287	290	322		289, 287 290
100	An Act to provide for the Construction of Canals and for Draining and Reclaiming certain Swamp and Overflowed Lands in Tulare Valley. Merritt, 284.		427	427	600	427, 450 499
101	An Act to provide for compensating Brigadier General Winn in full for Military Services. Committee on Claims, 286.	286	287, 322	322		290
102	An Act to authorize the Board of Supervisors in and for the County of Shasta to levy a Special Tax for the erection of Public Buildings in said County. Dosh, 289.		313	313		313

## BILLS, SENATE.

No.	TITLE.	Reported.	Proceedings in Com. of the Whole.	Passed Senate.	Passed Assembly.	Further Proceedings.
103	An Act to provide for Issuing Patents to Locators of Land Warrants. Taliaferro, 307.					313
104	An Act authorizing the United States to purchase Lands for public purposes. Merritt, 307.	317	329	329, 332	388	329, 317 325, 332
105	An Act concerning Notaries Public. Merritt, 318.	477	488, 489 691, 712	489	821	507, 527 550, 551
106	An Act to provide for Issuing Patents to Locators of Land Warrants. Taliaferro, 321.					
107	An Act to amend an Act entitled An Act to authorize certain Officers and Others to administer Oaths. McCallum, 321.	325	325	235		
108	An Act to Compensate Superior M. B. Russell, Sister of Mercy, for Services rendered in taking care of and maintaining the Indigent Sick of the State. Taliaferro, 323.					
109	An Act making Appropriations to defray the Civil Expenses of the Government of this State, from the 1st of February, 1857, to the 30th of June, 1857, inclusive. Substitute for A. B. 78. Committee on Public Expenditures, 295.					329
110	An Act for the Relief of Drs. Hand and W. R. Gibbons. Fiske, 328.	358				328, 330 332, 367
111	An Act to amend an Act entitled An Act concerning Evidence, passed February 5th, 1856. De la Guerra, 330.	337	339	339	388	
112	An Act to create a State Police Force. Cofroth, 336.	372				383
113	An Act amendatory of and supplementary to An Act to establish, support and regulate Common Schools, and to repeal former Acts concerning the same, approved May 3d, 1855. Mandeville, 338.	477	503	503, 541		490
114	An Act supplementary to an Act for securing Liens to Mechanics and others, passed April 19th, 1856. Waite, 338.	373	382	382	453	
115	An Act to fix the time for holding the Courts of Sessions and the County Court of Sacramento County. Furguson, 358.	358	358		358	
116	An Act to authorize the Executrix and Executors of the Last Will and Testament of William D. M. Howard, deceased, to sell Real Estate of the Testator at Private Sale. Soule, 360.		422	422, 499	388, 583	461



## BILLS, SENATE.

No.	TITLE.	Reported.	Proceedings in Com's of the Whole.	Passed Senate.	Passed Assembly.	Further Proceedings.
117	An Act to authorize the execution of a Bond under an Act for Funding the Debt of the City of San Francisco, passed May 7th, 1855. Sullivan, 360.	413	423, 460	460	535	
118	An Act to authorize the Board of Supervisors of Calaveras County to levy a Special Tax to redeem County Warrants. Norman, 361.	373	382	382	453	
119	An Act to reduce the Salary of the County Judge of Nevada County. Waite, 361.					
120	An Act to separate the Office of Collector of Taxes from the Office of Sheriff, in the County of Nevada. Waite, 361.					
121	An Act enabling Aliens to acquire and hold Property in this State. Johnson, 361.	395	824, 825			501, 633
122	An Act Taxing certain Instruments in Writing. Westmoreland, 361.					
123	An Act to amend an Act entitled An Act to regulate Proceedings in the Courts of Justice of this State. Merritt, 361.					
124	An Act for the Relief of Insolvent Debtors and for the Protection of their Creditors. Merritt, 361.					
125	An Act to appropriate three millions two hundred and thirty-nine thousand four hundred and eighty-eight dollars, to pay certain Outstanding Claims against the State. Norman, 364.		364, 462 592			468, 469 500, 558 584
126	An Act supplementary to an Act entitled An Act to Incorporate the City of Oakland, passed March 25th, 1854. Bell, 375.		395, 416	417	617	416
127	An Act to amend an Act entitled An Act to provide for the Incorporation of Railroad Companies. Goodwin, 375.					383, 604
128	An Act to separate the Office of Recorder and Auditor from the Office of Clerk in the County of Nevada. Waite, 375.					
129	An Act to authorize the Board of Supervisors of the City and County of San Francisco to provide for the Compensation due the Board of Examiners of the said City. Coffroth, 378.	754	754	755	821	
130	An Act to preserve the sanctity of Private Reputation, and the more effectually to prevent Breaches of the Peace. Crosby, 379.		689			542, 567 627, 588

## BILLS, SENATE.

No.	TITLE.	Reported.	Proceedings in Com. of the Whole.	Passed Senate.	Passed Assembly.	Further Proceedings.
131	An Act to authorize the Treasurer of State to issue Bonds for the Payment of Expenses incurred by the Siskiyou Expedition against the Indians during the year 1856. Crosby, 381.	390	417, 428 488	488		461
132	An Act to amend an Act entitled An Act to repeal the several Charters of the City of San Francisco, to define the Boundaries of the City and County of San Francisco, and to Consolidate the Government thereof, passed April 19th, 1857. Soule, 385.	449	461, 526	461, 527	671, 675	
133	An Act concerning the Revenue of Calaveras County. Norman, 389.	413		423	556	
134	An Act to authorize Maria Ignacia, wife of Javier Alvisa, and Maria Juana, wife of José Rochine to Sell and Convey Real Estate. Ferguson, Sacramento, 389.	395	422	422, 460	679	422
135	An Act relative to Acts making Appropriations. Johnson, 389.					416
136	An Act amendatory of, and supplementary to, An Act for the Protection of Game, passed May 13th, 1854. Taliaferro, 391.		558	558		
137	An entitled An Act to repeal an Act entitled An Act to provide for the Protection of Foreigners and to define their Liabilities and Privileges, passed March 30th, 1853, approved April 30th, 1852, and to revive the original Act. Westmoreland, 392.					
138	An Act to amend and supplementary to an Act to authorize the Formation of Corporations for the Construction of Plank and Turnpike Roads, passed May 12th, 1853. Waite, 416.			423, 424	535	
139	An Act to amend an Act entitled An Act concerning the Office of County Treasurer, passed March 27th, 1850. Walkup, 420.	428		428, 460	540	
140	An Act to pay E. H. Burns for services rendered in the Suppression of Indian Hostilities in the County of Klamath in this State. Shaw, 395.		428	428	740	
141	An Act supplemental to an Act entitled An Act to provide for the Formation of Corporations for Certain Purposes, passed April 14th, 1853. Merritt, 427.	496	658	808		516, 824
142	An Act to prohibit Noisy and Barbarous Amusements (and Opening Places of Business) on Sunday. McCallum, 437.	453	481	487, 686		462, 481 482, 483 485, 486 487, 528

## BILLS, SENATE.

No.	TITLE.	Reported.	Proceedings in Case of the Whole.	Passed Senate.	Passed Assembly.	Further Proceedings.
143	An Act to amend an Act entitled An Act concerning Sheriffs, passed April 29th, 1851. Goodwin, 437.		481	481	454, 476 617	687, 795
144	An Act amending an Act entitled An Act to prevent the Trespassing of Animals upon Private Property, passed March 31st, 1855. Bell, 437.	477	490	510		
145	An Act to amend an Act entitled An Act to provide Revenues for the Support of the Government of this State, passed May 15th, 1854. Walkup, 449.	449	449	449		
146	An Act empowering Minors to Sell Real Estate and Personal Estate under certain circumstances. Bell, 449.					
147	An Act amendatory of an Act entitled An Act amendatory of and supplementary to an Act entitled An Act to Regulate Proceedings in Civil Cases in the Courts of Justice in this State, passed May 15th, 1854. Taliaferro, 450.					
148	An Act to define the Powers and Duties of the Board of Supervisors of the City and County of San Francisco in certain cases. Soule, 454.	454	454	454	521, 536	521
149	An Act to provide for the Payment of the Indebtedness of the County of Shasta contracted prior to the first day of March, 1857. Dosh, 454.		480	523		
150	An Act making Appropriations for the Civil Expenses of the Government. McCallum, 456.					481
151	An Act to amend an Act entitled An Act defining the Rights of Husband and Wife, passed April 17th, 1850. Goodwin, 460.	481, 491	481	481		500, 583 607
152	An Act to grant H. M. Stone the Right of Way across the Sacramento River. Goodwin, 460.	481	481	481	497	488, 542
153	An Act to regulate the Fire Department of the City and County of San Francisco. Coffroth, 461.	507	509	509	514	
154	An Act concerning the Moneys in the State Treasury, and to appropriate from the same for the Civil Expenses of the State, from the 1st day of February, 1857, inclusive. Waite, 467.		467	467	485	
155	An Act relating to and fixing the Residence of the County Judge of the County of El Dorado. Carpenter, 467.		567	567	663	541

## BILLS, SENATE.

No.	TITLE.	Reported.	Proceedings in Com's of the Whole.	Passed Senate.	Passed Assembly.	Further Proceedings.
156	An Act to establish the County Seat of Tehama County. Dosh, 467.		481	481	536, 697	
157	An Act to enforce more effectually the Attendance of Witnesses on the Summons of either House of the Legislature of this State, and to compel them to discover Testimony. Norman, 479.	479	479	479, 501	507	501, 556
158	An Act supplementary and amendatory of an Act in addition to and explanatory of An Act for Securing Liens to Mechanics and Others, approved March 14th, 1857. Shaw, 479.	492		559	626	492
159	An Act to amend an Act entitled An Act to regulate Elections, passed March 23d, 1850. Carpenter, 485.	534				558
160	An Act concerning the Officers of the State Asylum for the Insane. Waite, 485.	735				749
161	An Act in relation to a Stage or Wagon Road from Anito, on Bold Creek, Mariposa County, to Yosemite Valley in said county. Merritt, 485.	491, 501				
162	An Act supplementary to an Act entitled An Act to exempt the Homestead and other Property from forced Sale in certain Cases, passed April 21, 1851. Bell, 485.				541	
163	An Act amendatory of and supplementary to the Act entitled An Act to provide for the disposal of the five hundred thousand acres of Land granted to the State by Act of Congress, passed on 3d of May, 1852. Coffroth, 488.		600		633, 659, 826	
164	An Act to guard against the Destruction of Property by Fire by means of Sparks from the Chimneys of Steamboats navigating certain Waters of this State. Committee of Free Conference, 478.	478	492	492, 541		
165	An Act to provide for the Payment of the Debts of the Counties of San Luis Obispo and Santa Barbara. Substitute A. B. 112. De la Guerra, 488.		500	500	500, 540	488
166	An Act supplementary to an Act entitled An Act to Apportion the Senatorial and Assembly Districts of this State, passed May 18th, 1853. McGee, 499.		516	518	525, 617	613, 516, 517
167	An Act additional to an Act entitled An Act to Regulate Proceedings in Civil Cases, in the Courts of Justice of this State, passed April 29th, 1851. Bell, 499.					



## BILLS, SENATE.

No.	TITLE.	Reported.	Proceedings in Com. of the Whole.	Passed Senate.	Passed Assembly.	Further Proceedings.
168	An Act to allow the Mayor and Common Council of Sacramento to Bridge the Sacramento River. Johnson, 514.		393, 394			
169	An Act to amend an Act entitled An Act to Create a Board of Supervisors in the Counties of this State, and to Define their Duties and Powers. Goodwin, 514.		542	542, 588	830	
170	An Act to amend an Act entitled An Act concerning County Records, passed March 26th, 1851. Burnett, 515. Substitute A. B. 132 and S. B. 58.		542			
171	An Act amendatory of and supplementary to An Act in relation to Personal Mortgages in certain cases. Mandeville, 515.		713, 726	762	834	
172	An Act entitled An Act to Grant the right to construct a Turnpike Road between the Town of Columbia and City of Sonora in the County of Tuolumne. Mandeville, 523.			533	611	532, 652
173	An Act to provide Revenue for the Support of the Government of the State. Johnson, 525.		608, 610 614, 616 621, 630 635, 641-5 647-9, 650 651, 680 682, 780-5	651, 683	777	557, 779 790, 786 807
174	An Act to amend An Act concerning Judges of the Plains (Inus del Campo), and defining their duties, approved April 25, 1851. Wilson, 537.	537	537	537	584	
175	An Act concerning the Official Bonds of Justices of the Peace in the First Judicial District. Wilson, 537.	537	537	537	556	
176	An Act supplementary and amendatory of an Act entitled An Act to authorize the Formation of Corporations for the construction of Plank and Turnpike Roads, passed May 12, 1853. Goodwin, 523.		685	685	759	
177	An Act concerning Roads and Highways.—Walkup, 532. Substitute S. B. 46, 89.		567, 720	819		542, 558 680, 819
178	An Act amendatory of, and supplementary to An Act to establish an Asylum for the Insane of the State of California, passed May 17th, 1853. Taliaferro, 538. Substitute, A. B. 38.		542, 588			
179	An Act defining the boundaries of the Fourth and Twelfth Judicial Districts of this State. Sullivan, 541.	541		543		740
180	An Act concerning certain Fees paid by the County of Placer. Walkup, 548.			594	613	

## BILLS, SENATE.

No.	TITLE.	Reported.	Proceedings in Com'n of the Whole.	Passed Senate.	Passed Assembly.	Further Proceedings.
181	An Act authorizing Francis De la Guerra and others to Build and Construct a Turnpike Road from the Ranch of Limi in the County of Santa Barbara to the Plain of San Fernando in the County of Los Angeles. Wilson, 549.		628	628	647	604
182	An Act to reduce and establish the <i>Per Diem</i> of Members, Officers and Attaches of the Legislature, and the Salaries of Officers.—McCallum, 550.		604, 714			604, 717
183	An Act to prohibit Gaming. Goodwin, 557.		712		806	
184	An Act to Incorporate the Town of Columbia in the County of Tuolumne. Coffroth, 571.			599		635
185	An Act supplementary to and explanatory of an Act entitled An Act to further extend the Act concerning Corporations, passed April 22d, 1850; passed February 23d, 1857.—Soule, 571.					633
186	An Act to authorize the Executors of Joseph L. Folsom, deceased, to sell Real Estate of their Testator at Private Sale. Coffroth, 577.		690	762, 772	762	
187	An Act to grant the Right of Way to H. B. Lathrop and others to Bridge Feather River at the Village of Oroville, Butte County. Goodwin, 586.	606	687, 707	687, 708		708
188	An Act to legalize the Acknowledgements taken by the Recorder and Deputy Recorder of Monterey County. Ashley, 586.		686	686, 708	830	832
189	An Act concerning County Auditors. Sullivan, 586.		607, 609	607, 608		761
190	An Act to set apart the Homestead and protect the same from Forced Sale. Woodward, 587.					
191	An Act concerning the Debt of Nevada County, and to provide for the payment of the same. Waite, 587.					
192	An Act to provide for the Payment of the Interest on the Funded Debt of the State of California. Waite, 590.					
193	An Act supplementary to An Act to amend an Act relating to Corporations, passed May 18, 1853. Committee on Corporations, 593.			593	647	
194	An Act concerning the County Treasurer of Fresno County. Merritt, 602.			612	616	

## BILLS, SENATE.

No.	TITLE.	Reported.	Proceedings in Com'e of the Whole.	Passed Senate.	Passed Assembly.	Further Proceedings.
196	An Act to create a Debt against the State of California, for the purpose of paying certain meritorious Claims against the State, and to provide ways and means therefor. Chase, 603.					
196	An Act concerning the Offices of Assessor and Tax Collector in Butte County. McGee, 603.					
197	An Act to obtain Information from certain Officers in this State, and to compel the production thereof. Shaw, 603.					
198	An Act to authorize the Sale of certain Real Estate by Guardian. Judiciary Committee, 605.		686, 722	686, 724	802	
199	An Act to fix the Time of holding the Terms of the District Court of the Twelfth Judicial District of the City and County of San Francisco. Shaw, 621.		621	621		
200	An Act to authorize the Main Street Wharf Company to build a Wharf in the County of Solano. Bynum, 622.		700	700	717	
201	An Act authorizing Charles J. Collins to build a Wharf at or near Point Callberg in Solano County. Bynum, 622.		700	700		
202	An Act to provide for Paying certain equitable Claims against the State of California, and to contract a Funded Debt for that purpose. Special Committee, 625.		654	655, 682	759, 803	759, 765
203	An Act supplementary to and explanatory of an Act entitled An Act amendatory of and supplementary to an Act entitled An Act to create the Office of State Printer, and define the Duties and Compensation thereof, and to provide for the time and manner of Election, passed May 1st, 1854, approved April, 1857. Burnett, 627.		639, 640	660	717	641, 760
204	An Act amendatory of and supplementary to An Act to Incorporate the City of Sacramento, passed March, 1851. Sacramento Delegation, 631.				759	
205	An Act to amend an Act entitled An Act to regulate Proceedings in Criminal Cases, passed May 1st, 1851. Woodward, 633.	660	660	660		
206	An Act to authorize Charles J. Collins, his Associates and Assigns, to build a Wharf at or near Point Callberg in Solano County. Substitute for 201. Committee on Commerce and Navigation, 635.	635			732	

## BILLS, SENATE.

No.	TITLE.	Reported.	Proceedings in Com. of the Whole.	Passed Senate.	Passed Assembly.	Further Proceedings.
207	An Act to authorize the Introduction of Water into the City and County of San Francisco. Shaw, 641.		775, 818	776		
208	An Act making a Grant for a Wharf at Monterey, and providing for the same. Committee on Commerce and Navigation, 646.				740	
209	An Act authorizing the Construction of a Sea Wall or Bulkhead in San Francisco. Shaw, 647.					
210	An Act amendatory of An Act to provide for the Formation of Corporations for certain Purposes, passed April 14, 1853. Coffroth, 651.					
211	An Act to repeal An Act for the Relief of Insolvent Debtors and Protection of Creditors, passed May 4, 1852. Substitute for S. B. 14. Merritt, 652.					
212	An Act to amend An Act to regulate Proceedings in Civil Cases in the Courts of this State, passed April 29, 1851. Substitute for S. B. 14, 123, 124. Judiciary Committee, 652.		709	829		
213	An Act relating to the Hospital Affairs in Tuolumne County. Tuolumne Delegation, 657.	657	657	657		
214	An Act to authorize Jackson Brontz to construct a Wagon Road from Mokelumne Hill to a point on the Jackson Road at or near the Golden Gate Ranch in Calaveras County. Norman, 658.	665		665	697	
215	An Act to provide for the Construction of the State Capitol in the City of Sacramento.—Ferguson, Sacramento, 658.		820			
216	An Act supplementary to An Act to authorize the Funding of the Floating Debt of the City of San Francisco, and to provide for the Payment of the same. Approved May, 1851. Woodward, 664.				706	
217	An Act to provide for the Construction of a Wagon Road from Marysville, Yuba County, to Honey Lake, Plumas County. McGee, 673. Substituted by S. B. 232.					
218	An Act to prevent Illegal Voting in the City and County of San Francisco, and to promote the convenience of Legal Voters. Woodward, 673.					
219	An Act concerning Taxes for Support of Common Schools in the City and County of San Francisco. Shaw, 674.		699	699	703	



## BILLS, SENATE.

No.	TITLE.	Reported.	Proceedings in Com'e of the Whole.	Passed Senate.	Passed Assembly.	Further Proceedings.
220	An Act for the Relief of R. Manning and J. Benndon. Meloney, 675.					
221	An Act for the Relief of Keepers of the San Francisco County Jail. Westmoreland, 675.					
222	An Act more clearly Defining the Western Boundary of Alameda County and the City of Oakland within said County. Bell, 679.					
223	An Act concerning County Warrants. Substitute for A. B. 332. Norman, 680.	680	680	680	739	
224	An Act concerning the County Judge of the County of Tehama. Dosh, 687.	706, 687	706, 687	706, 687		
225	An Act to adjust the Amount of Indebtedness of the County of Napa to the County of Solano, and to provide for the Payment of the same. Substitute for A. B. 148. Bynum, 690.	690	690	690	739	739
226	An Act to authorize Priscilla H. Denhan to sell certain Real Estate. Soule, 703.	824	824	824		
227	An Act to authorize the Board of Supervisors of Marin County to pay the Current Expenses of said County. Taliaferro, 705.	705	705	705	739	
228	An Act to authorize the Board of Supervisors of the City and County of San Francisco to appropriate any Public Building belonging to the City and County for a Public Hospital. Woodward, 705.	705	705	705		
229	An Act to amend An Act to Regulate Fees in Office. McCallum, 705.					
230	An Act to amend an Act entitled An Act to fix the Terms of the District Court in the County of San Mateo. Woodward, 720.	819	819	819	824	
231	An Act to prescribe the Time for Electing the Supervisors, School Directors and President of the Board of Supervisors of the City and County of San Francisco, and to fix their Term of Office. Soule, 720.		820	820	799, 833	799
232	An Act to provide for the Construction of a Wagon Road from Oroville, Butte County, to and intersecting at the most practicable point on the Line of the supposed National Wagon Road, that has its Terminus at or near Honey Lake, Plumas County. Substitute for S. B. 217. Report Special Committee, 726.	726	736, 741	736, 741		
233	An Act to Reduce and Fix the <i>Per Diem</i> of Members, Officers, and other Employees of the Government. McCallum, 733.	734	772, 816			741, 758 817, 818

## BILLS, SENATE.

No.	TITLE.	Reported.	Proceedings in Course of the Whole.	Passed Senate.	Passed Assembly.	Further Proceedings.
234	An Act to amend An Act concerning Evidence, approved February 5th, 1856. Ashley, Judiciary Committee, 751.					
235	An Act making Appropriations for the Support of the Civil Government of the State, for the Ninth Fiscal Year, commencing at the first day of July, A. D. 1857, and ending on the thirtieth day of June, A. D. 1858, inclusive. Waite, 758.		772	772		820
236	An Act making Appropriations for the Support of the Civil Government of the State, for the remainder of the Eighth Fiscal Year, commencing on the first day of February, A. D. 1857, and ending on the thirtieth day of June, 1857, inclusive. Waite, 758.		770	770	807	807
237	An Act authorizing the auditing and allowing of certain claims against the State of California. Burnett, 760.	789				
238	An Act to Restrict the Jurisdiction of Justices of the Peace in and for the County of San Francisco. Sullivan, 760.					
239	An Act to repeal the 35th Section of An Act concerning the organization of the Militia, passed April 25, 1855, as amended by an Act approved April 10th, 1856. Waite, 760.					
240	An Act to supply the City of Nevada with Water and protect the City against Fire. Waite, 760.			808	824	
241	An Act making a Grant for a Wharf at Monterey. Substitute A. B. 369. Ashley.					
242	An Act to provide for the equitable Adjustment and final Settlement of all outstanding Claims against the City of San Francisco, which accrued prior to the 1st day of July, 1856, and for the final Payment and Redemption of the Funded Debts. San Francisco Delegation, 758.					
243	An Act to amend an Act entitled An Act to Repeal the several Charters of the City of San Francisco, to establish the Boundaries of the City and County of San Francisco, and Consolidate the Government thereof; approved April 19th, 1856. Maloney, 770.					
244	An Act supplementary to an Act entitled An Act to authorize William Moody and Morgan Hart to Build a Wharf in the County of Solano, approved May 3d, 1852. Bynum, 770.	770	770	770	804	

## BILLS, SENATE.

No.	TITLE.	Reported.	Proceedings in Course of the Whole.	Passed Senate.	Passed Assembly.	Further Proceedings.
245	An Act to amend an Act entitled An Act to Incorporate the City of Nevada, approved April 19th, 1856. Substitute for A. B. 138. Nevada Delegation, 808.	808	808	808		
246	An Act fixing the Time of holding the County Court of Placer County. Westmoreland, 816.	816	816	816	826	
247	An Act explanatory of and supplementary to an Act entitled An Act amendatory of and supplementary to An Act to Repeal the several Charters of the City and County of San Francisco, to establish the Boundaries of the City and County of San Francisco, and to Consolidate the Government thereof, passed April 19th, 1856; passed April 18th, 1857. Crosby, 815.				833	
248	An Act supplementary to an Act entitled An Act to provide for the Support of the Government of this State, passed April 25th, 1857. Fergusson, Sac., 818.	818	818	818	820	821, 832 840
249	An Act concerning certain Fees paid by the County of Yuba. Burnett, 815.	832				
250	An Act authorizing the Judge of the Ninth Judicial District to hold a Special Term of the District Court in and for the County of Tehama. Dosh, 823.	823	823	823		
251	An Act to provide for the Payment of the Salary of the District Judges for the Month of January, A. D. 1857. Waite, 825.		825	825	825	
252	An Act concerning the State Prison. Maloney, 829.					
253	An Act authorizing the Board of Supervisors of the City and County of San Francisco to Audit and Allow Claims for Lighting said City with Gas. Shaw, 843.		843	843	843	

## BILLS, ASSEMBLY.

No.	TITLE.	Reported.	Proceedings in Committee of the Whole.	Passed Senate.	Further Proceedings.
1	An Act appropriating Money for Postage and Express Purposes during the present Session of the Legislature.	101	108, 114	101	
3	An Act to amend An Act to regulate Proceedings in Civil Cases, passed April 29th, 1851.	168, 126	182	182	168
5	An Act concerning County Officers in the County of Placer.	111	112	121	
6	An Act to change the Name of Leopold Zorkowski to Leopold Ross.	111			
9	An Act to Legalize and Confirm the Election of certain Officers.	112	117	117	
10	An Act to amend an Act entitled An Act defining the Rights of Husband and Wife, passed April 17th, 1850.	460			374, 620 633, 667
12	An Act to authorize the State Treasurer to issue Duplicate School Warrants to Nulton Wolfskin.	145, 131			
15	An Act to guard against the Destruction of Property by means of Sparks from the Chimneys of Steamboats navigating certain Waters of this State. See Substitute, Senate Journal, 164.	272, 292 293, 478			259, 291 282, 312 325
16	An Act to fix the Salary of County Judge of the County of Contra Costa, and to repeal in part An Act to fix the Compensation of County Judge and Associate Justices of Court of Sessions, passed May 17, 1853.	121	122	122	
18	An Act to fix the Time for holding the Courts in the Counties composing the Thirteenth Judicial District.				146, 147
19	An Act to fix the Compensation of the District Attorney of Contra Costa County.	121, 122		190	
24	An Act to Legalize and Confirm the Election of the Board of Trustees of the Town of Eureka, in the County of Humboldt.			189	
25	An Act to amend an Act entitled An Act to Incorporate the Town of Eureka, approved April 18th, 1856.		182		
25	An Act to provide for Funding the Indebtedness of the County of Yuba.			534	193, 533
26	An Act supplementary to an Act entitled An Act to separate the Office of Collector of Taxes from the Office of Sheriff, in the County of Yuba, approved April 27th, 1855.	164	148, 167 558	167	
27	An Act to authorize certain Parties to construct a Wharf in the County of Solano.	420, 557 571	628	628	
32	An Act supplementary to An Act to apportion the Senatorial and Assembly Districts of this State, passed May 18th, 1853.	254	382	390	



## BILLS, ASSEMBLY.

No.	TITLE.	Reported.	Proceedings in Com'e of the Whole,	Passed Senate.	Further Proceedings.
33	An Act to define the Boundary Lines of Tehama County, adopted as Substitute for Assembly Bill, No. 33.	263		263	193
35	An Act to cede certain Property to the Town of Eureka.	398	201		193
36	An Act to fix Salary of County Judge of Placer County.			193	193
38	An Act to amend An Act to establish an Asylum for the Insane of the State of California.	538	419		
40	An Act concerning the Office of State Treasurer.	131	131	131	231
41	An Act granting the Privilege to John A. Rudisal to erect a Wharf on Petaluma Creek in Sonoma County and Collect Wharfage.	214	214	214	216
44	An Act relating to the Officers of San Mateo County and Prescribing their Duties.	372	382	183, 382 414	194, 382
45	An Act to amend an Act entitled An Act to regulate Fees of Office, approved April 10th, 1855.				583
46	An Act to amend an Act supplementary to An Act, approved April 20th, 1852, entitled An Act to provide for Funding the Debt of San Joaquin County, for the Payment of the Interest thereon, and for the Gradual Liquidation of the Debt, approved April 19th, 1852.	197	197	197	196
47	An Act to declare Feather River navigable.	380	383	383, 436	305, 389
49	An Act amendatory of an Act fixing the Time of holding the Court of Sessions, County Seat, and Probate Court in and for the County of Santa Clara, passed April 18th, 1856.	262	265	265	254
52	An Act to establish County Seat of El Dorado County.	263, 272			282
54	An Act to amend an Act creating a Board of Commissioners and the Office of Overseer in each Township of the several Counties of this State, to regulate Water Courses within their respective limits, passed May 15th, 1854.	233	235	235	193
55	An Act concerning the Eighth, Ninth and Fifteenth Judicial Districts of this State, and the Judges thereof.	484			358, 500 521
57	An Act Supplementary to an Act entitled An Act to provide for the Indigent Sick in the Counties of this State, approved April 11th, 1855.	716	635, 819		
58	An Act to authorize the County of Tuolumne to fund the Outstanding Warrants drawn against the Hospital Fund of said County; to provide for the Payment of the same, and to repeal an Act entitled An Act to authorize the Court of Sessions of the County of Tuolumne to Levy and Collect a Special Tax for the Support and Maintenance of the Indigent Sick of said County, passed April 13th, 1854.				566

## BILLS, ASSEMBLY.

No.	TITLE.	Reported.	Proceedings in Committee of the Whole.	Passed Senate.	Further Proceedings.
59	An Act to fix the Time of Holding the County Court, Court of Sessions and Probate Court in the County of Santa Cruz.	223	223	223	194
60	An Act to amend an Act entitled An Act to Fund the Debt of the County of Napa, and provide for the Payment of the same, approved April 19th, 1856.	216	217	217	
62	An Act to Incorporate the City of Marysville.				222, 225
63	An Act to fix the Compensation of the County Judge of Napa County, the County Judge of Yolo County and the County Judge and District Attorney of the County of Humboldt.	184		188	193, 312
64	An Act to create the County of Buchanan, to define its Boundaries and provide for its Organization.	224	224	221	194
65	An Act to Fund the Debt of the County of Sutter, and provide for the Payment thereof.	271	271	271	271, 313 318
67	An Act to provide for the Sale of the 16th and 36th Sections of Land Donated to the State of California, for School Purposes, by Act of Congress, passed 3d March, 1853.	759			
69	An Act amendatory of an Act supplementary to an Act entitled An Act to provide for the Disposal of five hundred thousand acres of Land granted to this State by Act of Congress, passed May 3d, 1852.				363
70	An Act concerning the Office of County Recorder of the County of Sonoma.	195	198	198	198
75	An Act to extend an Act concerning Hogs found running at large in the Counties of Marin, Sacramento, San Francisco, Stanislaus, Alameda, Yuba and Santa Clara, approved April 21st, 1855.	233	235	235	216, 305 336
77	An Act authorizing the Board of Supervisors of San Joaquin County to audit the Account of John A. Tyler.	221			221, 208 223
78	An Act making Appropriations to defray the Civil Expenses of the Government from the 1st of February, 1857, to the 30th of June, 1857, inclusive.	292	296	319	266, 295 308, 318 319
80	An Act to fix the Compensation of County Judge and District Attorney for Stanislaus, and the District Attorney of Napa County.	217	217	217	
83	An Act to separate the Office of Collector of Taxes from the Office of Sheriff in the County of Butte.	208	208	208	
84	An Act concerning Lawful Fences in the County of Contra Costa.	311	325	325	305
85	An Act to amend an Act to change the Time of holding	263	263	263	259, 263

## BILLS, ASSEMBLY.

No.	TITLE.	Reported.	Proceedings in Com's of the Whole.	Passed Senate.	Further Proceedings.
	the County Court and Court of Sessions of the County of Calaveras, and to change the Manner of Summoning a Jury for the County Court of said County, approved April 27th, 1855.				
87	An Act amendatory to an Act entitled An Act to provide for the Funding of the Floating Debt of the City of Marysville, and for the Extinguishment thereof, approved April 30th, 1855; also amendatory of an Act entitled An Act to provide for Funding the Floating Debt of the City of Marysville and for the Extinguishment thereof, and for other purposes, approved February 8th, 1856.	230			230, 217
96	An Act to amend an Act to Incorporate the City of Monterey, approved May 11th, 1853.	239	255	255	239, 222
97	An Act amendatory of and supplementary to an Act concerning Divorcees, passed March 25th, 1851.	567		709	
98	An Act to fix the Compensation and Pay of the Members of the Senate and Assembly of the State of California.	497	497, 529	529	549, 550
99	An Act to fix the Times and Places for holding the Terms of the District Court of the Tenth Judicial District of this State, and the County Court of the County of Yuba.	806			
101	An Act supplementary to an Act entitled An Act to Re-Incorporate the City of Sonora, approved March 9th, 1855.	207	207	207	
102	An Act to protect the Owners of Growing Crops, Buildings, and other Improvements in the Mining Districts of this State, and to repeal a similar Act, approved April 25, 1855.	420			
107	An Act to fix the Compensation of the County Judge of San Joaquin County.	219	219	219	
108	An Act relating to the Thirteenth Judicial District, and to define the Time of holding the Courts of said District.				
109	An Act to create a Board of State Commissioners in the County of San Bernardino and to define their Duties, &c.	312	325	325	305
111	An Act to change the Time of holding the Courts in Yolo County.	273	283	283	254, 283
112	An Act to provide for the Extinguishment of the Debt of San Luis Obispo County.	264			488
114	An Act to prevent the Owners of Saw Mills and Other Persons from Obstructing the Channels of Humboldt Bay and Harbor.	380	383	383	415

## BILLS, ASSEMBLY.

No.	TITLE.	Reported.	Proceedings in Com. of the Whole.	Passed Senate.	Further Proceedings.
115	An Act amendatory of an Act entitled An Act to establish the Boundaries of Amador County, and fix the County Seat thereof, passed April 23d, 1855.	679.	793	794	
117	An Act to authorize the Mayor and Common Council to take and Subscribe One Hundred Thousand Dollars to the Capital Stock of the Benicia and Marysville Railroad, or other Railroad Company, and to provide for the Payment of the Same, and Other Matters relating thereto.				415
118	An Act to authorize the State Treasurer to issue to Milton Wolfskill a Duplicate School Land Warrant.				237, 332
119	An Act to define the Lines of Yolo County, and to establish its Boundaries.	264, 435	461	461	
120	An Act to prohibit the Erection of Weirs and other Obstructions to the Run of Salmon.	548			548
121	An Act to amend an Act entitled An Act to create the Office of State Printer, and define the Duties and Compensation thereof, and to provide for the Time and Manner of Election, passed May 1st, 1854.		428		528
122	An Act to Extend the Time of Collecting Taxes in the County of Marin.		308	308	234, 307
126	An Act amendatory of an Act entitled An Act to provide for the Protection of Foreigners, and to define their Liabilities and Privileges, passed March 30th, 1853.	740	838	838	
132	An Act amendatory of and supplementary to An Act in relation to Personal Mortgages in certain Cases, passed May 11th, 1853.	373, 395			363, 422
134	An Act for the Relief of R. G. Crozier.	788			
135	An Act concerning Tenants in Common, Joint Tenants and Corporations.	373	392	386	358, 415
136	An Act for the Relief of E. B. Carsau, Sheriff of El Dorado County.	788	838	838	
137	An Act to Incorporate the Town of Oroville.	393, 413 788		423	
138	An Act to amend an Act entitled An Act to Incorporate the City of Nevada, approved April 14th, 1856.	393			
141	An Act explanatory of an Act entitled An Act to Reduce and Establish the Salaries of Officers and Pay of Members of the Legislature, approved April 21st, 1856.	271	271		
142	An Act to authorize the Board of Supervisors of the County of Yuba to take and subscribe \$200,000 to the Capital Stock of the Benicia and Marysville Rail-	498	498, 809	809	727



## BILLS, ASSEMBLY.

No.	TITLE.	Reported.	Proceedings in Com's of the Whole.	Passed Senate.	Further Proceedings.
	road, or other Railroad Company, and to provide for the Payment of the Same, and Other Matters relating thereto.				
143	An Act to amend an Act entitled An Act to aid the Officers of the Indian Department, appointed by the General Government for the State of California, in the Discharge of their Duties.	497	497	639	
144	An Act to divide the State of California into Congressional Districts, in accordance with an Act of Congress, approved June 25th, 1842.	653			
145	An Act to repeal an Act entitled An Act to authorize the Judges of the Supreme Court to employ a Secretary, approved April 30th, 1855.	600	686	686	
147	An Act to Incorporate the City of San Jose.	380	358	383	
148	An Act to ascertain the amount of Indebtedness due from the County of Napa to the County of Solano, and provide for the Payment of the same. Substitute for S. B. 225.	548, 620		690	548
152	An Act to amend an Act entitled An Act to Incorporate Crescent City, passed April 13th, 1854.	328	367	367	357, 437
153	An Act to pay E. H. Burns for Services in the Indian War.	312, 387			312, 329 321, 422
156	An Act concerning the Boundary Lines of the County of San Bernardino.			423	381, 412
157	An Act to authorize the Governor to remove Insane Persons from the State Prison to the State Insane Asylum.		628	628	
158	An Act to amend section Sixth of an Act to provide for the Erection of a Jail in the County of Tuolumne, passed April 19th, 1856.			529	386, 543 567
160	An Act to provide for the Payment of the Debt of Santa Cruz County.	636			708
165	An Act to amend an Act entitled An Act to provide for the Appointment and prescribe the Duties of Guardians, passed April 19th, 1850.		713		583
166	An Act to provide Revenue for the Support of Government of this State from a Tax to be levied and collected from Foreign and Inland Bills, and other matters.	506	664, 665 799, 800	801	506, 653 695, 703
171	An Act to authorize the Board of Supervisors of Stanislaus County to levy an Additional Tax for County purposes.		381	381	415
172	An Act to authorize Bruce Grimes to build a Wharf on Napa Creek.	387			386

## BILLS, ASSEMBLY.

No.	TITLE.	Reported.	Proceedings in Com. of the Whole.	Passed Senate.	Further Proceedings.
176	An Act to extend the Time of Collecting Taxes in the County of Contra Costa.		367	367	
179	An Act to fix the Compensation of Certain Officers in the Counties of Santa Clara, Santa Cruz, Monterey, Mariposa, Butte, Colusi, Napa, Yolo, San Joaquin and Yuba.		436	685	707
181	An Act to provide for the Funding of the Indebtedness of the County of Klamath.	514	542	542	
186	An Act to provide for Indigent Sick in Butte County.	418		419	388
187	An Act to provide for Issuing Licenses to Passenger Brokers.	508	508	508	
189	An Act concerning Hogs found running at large in the Counties of Colusi, Tehama and Butte.	419, 526	477, 542	542	490
190	An Act to cede Certain Property to the Town of Eureka.		422	422	374
191	An Act to provide for the Publication of the General Laws of this State in force at the expiration of the eighth session of the Legislature.		660		
193	An Act to amend an Act entitled An Act to adjust the indebtedness of the County of Alameda to the County of Contra Costa.	478	467, 478, 660	478, 660	
194	An Act to fix the Compensation of County Judge and District Attorney of Calaveras County.	393, 413		423	
195	An concerning the Collection of Taxes in Yolo County.		357	376	357, 364 567
198	An Act to repeal an Act entitled An Act to authorize Married Women to Transact Business in their Own Names as Traders.	707			
199	An Act to grant to the Sheriff of Alameda County Additional Time to make his Annual Settlement for collection of State and County Taxes for the year 1856.		369	369	368
201	An Act to provide for the Payment of the Debt of Certain Counties.	420	461	461	436
203	An Act to provide for the Collection of Delinquent Taxes, and to legalize the Assessment, in the County of Calaveras.		567	567	
204	An Act to create the County of Del Norte, to define its Boundaries, and provide for its Organization.		362	362	
206	An Act to prescribe the Mode of Drawing Grand Jurors and Trial Jurors in City and County of San Francisco.		462	462	453
207	An Act supplementary to an Act entitled An Act to provide for the Formation of Corporations for Certain Purposes, passed April 14th, 1853.	498, 539	498, 543	543	

## BILLS, ASSEMBLY.

No.	TITLE.	Reported.	Proceedings in Com't of the Whole.	Passed Senate.	Further Proceedings.
209	An Act amendatory and explanatory of an Act entitled An Act amendatory of an Act entitled An Act to provide for the Disposal of Lots in the Towns and Villages in Humboldt County, passed April 30, 1856.	479	685	685	
210	An Act to change and fix the County Seat of the County of Yolo.		466	481	
211	An Act to authorize the Trustees of the Town of Eureka, in Humboldt County, to dispose of the Proceeds arising from the sale of Town Lots in said Town.	479			604
212	An Act supplementary to an Act entitled An Act to provide for the Appointment and Prescribe the Duties of Guardians, passed April 19th, 1850.	498	498, 529	529	530, 531
213	An Act to abolish the Superior Court of the City of San Francisco and to provide for the Transfer of its Records, Books, Papers, Actions, and other matters therein, for the Preservation of the Rights and Interests of Parties.			559	535
214	An Act to amend an Act entitled An Act to regulate Proceedings in Criminal Cases, passed May 1, 1851.	420, 426	437		
215	An Act to grant to Certain Parties the right of laying a Railroad track along certain streets within the City and County of San Francisco.		467	481	
216	An Act amendatory of an Act entitled An Act amendatory of an Act to Fund the Debt of Contra Costa County, and to provide for the Payment of the same, approved April 30th, 1855.	498	498	498	
217	An Act to authorize the Treasurer of State to issue certain Duplicate Interest Coupons.	627			
220	An Act to regulate Fees in Office in County of Yuba.	607	711	711	
223	An Act supplementary to an Act relating to Corporations.		540		
224	An Act to authorise the Supervisors of Fresno County to levy a Special Tax.		541	563	
231	An Act to provide for the Erection of a Jail in San Bernardino County.		535	558	
232	An Act to amend an Act to define the Time when the County Officers of Sierra County shall enter upon the discharge of their duties.	588	685	685	
233	An Act to separate the Office of County Recorder from the Office of County Clerk, in the County of Butte.		565	565	
234	An Act explanatory of An Act to amend An Act to reduce and establish the Salaries of Officers and Pay of the Members of the Legislature.				

## BILLS, ASSEMBLY.

No.	TITLE.	Reported.	Proceedings in Com. of the Whole.	Passed Senate.	Further Proceedings.
235	An Act concerning the Records and Proceedings of the Courts of Sessions, County Courts and Probate Courts of this State, and the Superior Court of San Francisco.	703			
236	An Act to Regulate Fees in Office, in certain Counties	567	700	702	717, 760
238	An Act to amend An Act to regulate Proceedings in Criminal Cases, passed May 1st, 1851.		541	593	
239	An Act supplemental to an Act entitled An Act to create a Board of Commissioners, to Examine the Claims of the Citizens of the Counties of Klamath, Siskiyou and Humboldt, and report to the Governor of this State the amount of just Claims held by the Citizens of those Counties, for services rendered and Supplies furnished to the Troops and Volunteers engaged in the Suppression of Indian Hostilities, in the Years 1852, 1853, 1854 and 1855; passed April 18th, 1856.		535, 709		
242	An Act to define the Time for holding the District Court in the Fourteenth Judicial District.		535	646	
243	An Act to amend an Act entitled An Act to Incorporate Crescent City, passed April 13th, 1854.	609	684	684	
244	An Act to Re-incorporate the City of Stockton.		540	549	
245	An Act amendatory of and supplemental to an Act entitled An Act to provide for the Protection of Foreigners and to define their Liabilities and Privileges, approved March 30th, 1853.		619	619	
247	An Act for the Relief of James Allen, State Printer.	759, 787	837	837	
248	An Act for the Relief of the State Prison.	468	465, 466	468	485
249	An Act supplementary to An Act to Create a Board of Supervisors in the Counties of this State, and to define their Duties and Powers, passed March 20, 1855.	567			
250	An Act to Locate the County Seat of Butte County.		548	548	
252	An Act restricting the Herding of Sheep to certain Pasturage in the County of Sonoma.		685	685	
254	An Act concerning Delinquent Taxes in certain Counties of this State. Substitute S. B. 73.	498	498, 515		499, 533 557, 600
255	An Act concerning Apprentices.				
256	An Act to authorize the Board of Supervisors of San Joaquin County to Appropriate Money.		541		
257	An Act authorizing the Location and Patenting of School Warrants.	607	776	777	
258	An Act authorizing the Treasurer of State to issue a certain Interest Coupon to Julius Kreyenhagen.	627	684	684	



## BILLS, ASSEMBLY.

No.	TITLE.	Reported.	Proceedings in Com. of the Whole.	Passed Senate.	Further Proceedings.
261	An Act amendatory of and supplementary to an Act entitled An Act to provide for the Indigent Sick in the Counties of this State, approved April 13, 1855.		541		
262	An Act making Orders or Warrants drawn on the County Treasurer of Stanislaus County, and payable out of the County Revenue, receivable for County Dues and Taxes in said County.		537	627	
263	An Act to amend an Act entitled An Act to amend an Act entitled An Act to provide for the Incorporation of Railroad Companies; passed April 22d, 1853; amended May 15th, 1854; amended April 10th, 1855.	627	690	823	
265	An Act to amend An Act concerning Marks and Brands, passed May 1, 1851.		540	558	
266	An Act supplementary to an Act entitled An Act to Apportion this State into Senatorial and Assembly Districts, passed May 18th, 1853.		608	608, 684	582
267	An Act to Re-organize and Establish the County of San Mateo.	584	684	684, 708	
269	An Act to provide for the Payment of Volume Five of the Reports of the Supreme Court of California.	626	724	725	
270	An Act to amend an Act entitled An Act to provide Revenue for the Support of the Government of this State, passed May 15th, 1854.				
271	An Act to Re-incorporate the City of San José.				
273	An Act to organize the County of Buena Vista.	635			
274	An Act supplemental to and amendatory of an Act entitled An Act to alter and define the Boundary Line of Tehama County, approved February 19th, 1857.	525	521	542	525
276	An Act amendatory to An Act to provide Revenue for the Support of the Government of this State, passed May 15th, 1854.				
277	An Act to amend an Act entitled An Act Dividing the State into Counties, and establishing the Seats of Justice therein, passed April 25th, 1851.	566	574	574	
278	An Act to amend an Act entitled An Act to provide for the Formation of Corporations for certain purposes, passed April 14th, 1853.		540, 604		
280	An Act to provide for the Incorporation of Yreka.		690	690	
282	An Act to authorize the Board of Supervisors of Contra Costa County to pay the Current Expenses of said County.		581	581	
283	An Act to change and fix County Seat of Yolo County.		521	521	

## BILLS, ASSEMBLY.

No.	TITLE.	Reported.	Proceedings in Committee of the Whole.	Passed Senate.	Further Proceedings.
284	An Act to authorize Samuel A. Bishop or his assigns to collect Tolls on a Road in Los Angeles County.	567	639	639	
285	An Act amendatory and supplementary to an Act entitled An Act to Incorporate the City of Marysville, approved March 8th, 1857.	565	657	657	
290	An Act supplementary to an Act entitled An Act to provide for the Incorporation of Railroad Companies, passed April 22d, 1853, and the several Acts amendatory thereto.		537, 575 670	661, 662	
291	An Act amendatory of an Act entitled An Act to amend An Act to provide Revenue for the Support of the Government of this State, passed May 15th, 1854, approved April 27th, 1855.		536	536	
292	An Act to extend the Time for Collecting Taxes in the County of San Mateo.	626	626	626	
293	An Act fixing the Time of Holding the Courts of Sessions, County Courts and Probate Courts in the Counties of Siskiyou and Colusi.	566	685	685	
295	An Act concerning the Office of Assessor in the County of Butte.	607	625	625	
296	An Act to authorize the Board of Supervisors of Los Angeles County to levy an Additional Tax, to Pay for a Court House in said County, and Other County Purposes.	557		563	
298	An Act to repeal an Act entitled An Act concerning County Judges, passed April 4th, 1854.	607			
299	An Act to authorize the Board of Supervisors of Humboldt County to levy a Special Tax for certain purposes, and to provide for the Collection of the Same.	620	690	690	583
300	An Act amendatory of and supplementary to An Act to Incorporate the City of Sacramento, passed March 1857.	548, 620 632	691		548
302	An Act to reimburse Peter Freer, Sheriff of Butte County for Moneys Overpaid the State of California, for Foreign Miners' License Tax.	811	825	825	
303	An Act to define the Boundary Lines of San Bernardino County.	583		603	
306	An Act to amend the first Section of an Act entitled An Act concerning Passengers arriving in Ports of the State of California, passed May 3, 1852, and which was amended by an Act approved April 2, 1853.	739			
307	An Act amendatory of an Act entitled An Act to provide for the Sale of Swamp and Overflowed Lands belonging to this State, approved April 28th, 1855.	607			

## BILLS, ASSEMBLY.

No.	TITLE.	Reported.	Proceedings in Com'e of the Whole.	Passed Senate.	Further Proceedings.
308	An Act to authorize the Construction of Wharves upon Sloughs and Creeks in certain Counties in this State.	806			
309	An Act Relative to the Issues of Fact joined in the Probate Court.	616	709		
311	An Act to amend an Act entitled An Act to amend An Act to Regulate Proceedings in Criminal Cases, passed May 1st, 1851, approved March 22d, 1856.	600	600	607	
312	An Act to authorize the County of Sacramento to Fund the Outstanding Warrants drawn on the several Funds of the County, prior to the first day of November, 1855.	635	672	672	673
316	An Act to provide for the Sale of the Swamp and Overflowed Lands belonging to this State.	626	790, 799 835		772, 814
318	An Act to Fund the Debt of the County of Siskiyou.	632	684, 720		805
320	An Act concerning Certain Records in the County of San Joaquin.	671	720	720	
322	An Act concerning the Board of Supervisors in Los Angeles County.			607	
323	An Act regulating Challenges to Individual Grand Jurors	663			
324	An Act concerning Certified Copies of Certain Instruments in writing.	824	827	827	
326	An Act for the Relief of James H. Hardy.				
327	An Act to authorize Rafael Gomez to receive and enjoy Certain Property.	653	712	713	
328	An Act granting David Seely and Others the Right to collect certain Tolls in San Bernardino County.	613	625	625	
332	An Act to amend an Act entitled An Act concerning County Recorders, passed March 26th, 1851. Substitute S. B. 223.	663	670		
333	An Act to amend an Act entitled An Act to Regulate the Settlement of the Estates of Deceased Persons, passed May 1st, 1851, and the Acts amendatory thereof.				
334	An Act supplementary to an Act entitled An Act concerning the Eighth, Ninth and Fifteenth Judicial Districts of this State, and the Judges thereof.		600	600	
335	An Act for the Relief of David F. Newson.	647			
337	An Act to Authorize the Supervisors of Alameda County to levy a Special Tax.	616	690	699	
339	An Act concerniag the State Prison.	812			

## BILLS, ASSEMBLY.

No.	TITLE.	Reported.	Proceedings in Com. of the Whole.	Passed Senate.	Further Proceedings.
342	An Act concerning the Indigent Sick in Placer County.	647		662	
343	An Act granting the Right to the Administrators of George O. Gunn, deceased, to sell the Real Estate belonging to said Estate at Private Sale.	653			
347	An Act in relation to Suits brought on Bonds and Obligations in favor of the State.		613	613	
349	An Act amendatory of an Act to amend an Act entitled An Act amendatory and supplementary to an Act entitled An Act concerning the Courts of Justice of this State and Judicial Officers, passed April 16th, 1855.	626	724	724	
350	An Act to provide for the Erection of a Court House and Jail in the County of San Luis Obispo.	663	720	720	
353	An Act to repeal an Act entitled An Act to provide for the Construction of the State Capitol in the City of Sacramento, approved April 18th, 1856.	804	826		
354	An Act to amend An Act to fix the Time of Holding the District Court in the Third Judicial District.	635		709	
355	An Act to change the Name of Frederick A. Peelsluckee to that of Frederick A. Pell.	626	626	626	
356	An Act concerning Poll Taxes.				
357	An Act to amend an Act entitled An Act to amend the 182d Section of An Act concerning Corporations, passed April 22d, 1850, passed May 3d, 1852.	706	706		
358	An Act to amend an Act entitled An Act to Incorporate the Town of Placerville, passed May 13th, 1854.	679	717	717	
360	An Act supplemental to An Act to provide for Fund- the Legal and Equitable Debt of the City of San Francisco, and for the Final Redemption of the Same, passed May 17th, 1855.	378			
361	An Act supplemental to and amendatory to an Act entitled An Act to prescribe the mode of Drawing Grand Jurors and Trial Jurors in the City and County of San Francisco.	805			
362	An Act providing for the Transfer of Suits or Actions pending in the Superior Court of the City of San Francisco to the District Court of the Twelfth Judicial District, in certain cases.	703	776		
363	An Act to provide for the Construction of Canals and for Levying and Draining and Reclaiming certain Swamp and Overflowed Lands in the Counties of Sutter and Butte.	679			791
364	An Act to authorize T. O. Larkin to sell certain Lands in Colusa County, belonging to his Infant Children.	653	713	713	



## BILLS, ASSEMBLY.

No.	TITLE.	Reported.	Proceedings in Com'e of the Whole.	Passed Senate.	Further Proceedings.
365	An Act to amend an Act entitled An Act to regulate Proceedings in Civil Cases in the Courts of Justice in this State, passed April 29th, 1856, and of the several Acts amendatory thereof.	804	841		
367	An Act to change the Name of Walton Pricket to that of Walton Pricket Rise.	635	713	713	
368	An Act to amend an Act entitled An Act to provide for the Protection of Foreigners, and to define their Liabilities and privileges, passed March 30th, 1853.	832	832	832	
369	An Act to authorize the Construction of a Wharf at Monterey, in the County of Monterey.	663			
370	An Act to amend an Act entitled An Act to Re-incorporate the City of Jackson, passed March 31, 1857.	653	653	653	
371	An Act explanatory of An Act to amend An Act to Reduce and Establish the Salaries of Officers and Pay of Members of the Legislature, approved April 21st, 1856.				
373	An Act to authorize the Board of Supervisors of the City and County of San Francisco to allow, confirm and direct the Auditing of certain Claims therein mentioned.		806	806	
374	An Act to grant the right to Construct a Bridge across the American River between the City of Sacramento and the American Township to a certain point therein named.	707			
375	An Act to fix the Compensation of the Supervisors of the Counties of Butte and Amador.	734	738	738	
376	An Act to amend An Act to provide for Choosing Electors for President and Vice President of the United States, passed April 28th, 1852.	739			
377	An Act to amend an Act entitled An Act to authorize the County of Sacramento to Fund the outstanding Warrants drawn against the Court House and Jail Fund of the County, approved March 5th, 1855.	671	720	720	
378	An Act to provide for fixing the Commencement of the Terms of Office for the County of Yuba.	671	720	720	
379	An Act authorizing the Treasurer of State to issue Bonds for the Payment of Expenses incurred in the Suppression of Indian Hostilities in Certain Counties in this State.	689	775	793	
380	An Act submitting to the People of El Dorado and Sacramento Counties a proposition to appropriate Moneys for the Construction of a Wagon Road.	809	809	809	
384	An Act in relation to the Salaries of, and Fees received	804			

## BILLS, ASSEMBLY.

No.	TITLE.	Reported.	Proceedings in Course of the Whole.	Passed Senate.	Further Proceedings.
	by the County Clerk (as Clerk of the various Courts.) and the County Recorder of the City and County of San Francisco, and prescribing certain of their Powers and Duties.				
385	An Act to repeal an Act entitled An Act amendatory of an Act entitled An Act concerning County Judges, passed April 4th, 1854, and also an Act which passed April 30th, 1855, amendatory of the above recited Act, approved April 18th, 1856.	679		702	
387	An Act to provide for the Draining and Reclamation of certain Swamp and Overflowed Lands in the Counties of Yolo and Solano.				
389	An Act fixing Traveling Fees in Tulare County.	679			
392	An Act relative to Publishing in the Counties of Santa Barbara and San Luis Obispo.	740	809	809	
395	An Act to amend the Act entitled An Act defining the Time for Commencing Civil Actions, passed April 22d, 1850.	812			
397	An Act amendatory of An Act to provide for Funding the Indebtedness of the County of Yuba, approved March 26th, 1857.	806	838	838	
398	An Act to amend An Act fixing the Time of Holding the several Courts authorized to be held by the County Judge in Alameda County, passed March 10, 1854.	696	775	775	
399	An Act to authorize the Board of Supervisors of Yuba County to levy a Special Tax, to be applied towards the Construction of a Wagon Road, through Yuba, Butte and Plumas Counties, to intersect the Government Road at Honey Lake, Plumas County.	707			
401	An Act for the Relief of Wm. G. Still.	732			
402	An Act for granting to Gideon Auenbaugh, and such Parties as he may associate with him, certain Overflowed Lands, on which the Wharf constructed by him and others is situated.	739			
403	An Act for the Relief of Silas Wilcox.	740			
404	An Act for the Relief of William Mock.	740			
406	An Act to provide for the Draining and Reclamation of certain Swamp and Overflowed Lands in the Counties of Colusa and Yolo.	807			
408	An Act to Release B. S. Gray from Liability to the State of California on a certain Bond.	740			
409	An Act to separate the Office of Collector from the Office of Sheriff, in the County of El Dorado.	734	814	814	

## BILLS, ASSEMBLY.

No.	TITLE.	Reported.	Proceedings in Com'te of the Whole.	Passed Senate.	Further Proceedings.
410	An Act to amend An Act concerning Courts of Justice in this State, and Judicial Officers, approved May 19th, 1853.	770	797	797	
413	An Act to change and fix the Time of Holding the Court of Sessions in the County of Sutter.	732			
414	An Act to provide for the Draining and Reclamation of certain Swamp and Overflowed Lands in the Counties of San Joaquin and Stanislaus.	821			
415	An Act for the Relief of S. H. Marlette and others.	734			
416	An Act for the Relief of H. A. Murphy.				
417	An Act concerning Legal Publications.	759			
418	An Act to amend Section 5 of an Act entitled An Act concerning the Office of Surveyor-General.		759	759	
419	An Act to authorize the Superintendent of Common Schools for the County of Placer to Teach.	769	777	777	777
420	An Act to authorize the Introduction of Water in the City of San Francisco.	812	827	827	
421	An Act to authorize the construction of a Telegraph Line from Marysville to the Territory of Oregon.				
422	An Act for the Relief of Rivett & Co.				
423	An Act for the Relief of W. B. Throubury, Sheriff of Yuba County.	788			
424	An Act for the Relief of J. M. Scott, Jr.	791			
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